

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DR. DENEAN ADAMS,

Plaintiff,

v.

BOARD OF EDUCATION HARVEY SCHOOL  
DISTRICT 152, GLORIA JOHNSON in her  
individual capacity, BETTY JOHNSON  
in her individual capacity,  
DR. KISHA McCASKILL in her  
individual capacity, JANET ROGERS  
in her individual capacity, TYRONE  
ROGERS in his individual capacity,  
LINDA HAWKINS in her individual  
capacity, FELICIA JOHNSON in her  
individual capacity,

Defendants.

No. 15 C 8144

October 30, 2018  
Chicago, Illinois  
9:30 a.m.

Trial

VOLUME 2  
TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE SHARON JOHNSON COLEMAN, and a  
jury

APPEARANCES:

For the Plaintiff: MR. JEROME M. DAVIS, ESQ.  
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Lakewood, Illinois 60014

For the Defendants: HAUSER IZZO PETRARCA GLEASON & STILLMAN  
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BY: MR. CHRISTOPHER L. PETRARCA

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1 APPEARANCES CONTINUED:

2 LAW OFFICES OF JENNIFER K. SCHWENDENER LLC  
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6 BY: MS. JENNIFER K. SCHWENDENER  
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1           (The following proceedings were had in open court outside  
2           the presence of the jury:)

3           THE CLERK: 15 CV 8144, Adams versus Board of  
4 Education Harvey School District 152.

5           MR. DAVIS: Good morning, Your Honor. Jerome Davis  
6 for the plaintiff Dr. Adams.

7           THE COURT: Good morning.

8           MS. SCHWENDENER: Good morning, Your Honor. Jennifer  
9 Schwendener on behalf of the defendants.

10          MR. PETRARCA: Good morning, Your Honor. Chris  
11 Petrarca also on behalf of the defendants.

12          THE COURT: All right. Thank you. We have some  
13 things I guess to clear up, and then you all can go ahead and  
14 explain to me what the rest of my day is like today. Starting  
15 with plaintiff. Or what you need -- what else you need to  
16 discuss today.

17          MR. DAVIS: Well, I expect Detective Wright in first  
18 thing today, Judge. And then I expect to continue with my  
19 client.

20          THE COURT: Now, when you say he's first thing today,  
21 did you not say you told him 10:00 o'clock?

22          MR. DAVIS: Yes.

23          THE COURT: All right. Well, I'm going to be ready  
24 to start before then. So we can go to your client for a little  
25 while. We can't, we can't afford to wait. So I thought that

1 that's what you were saying when you said you told him 10 that  
2 you wanted to finish up something else with her before you  
3 started with him, and then go back to her. Otherwise I would  
4 have told you to tell him to come in at 9:30.

5 MR. DAVIS: Okay.

6 THE COURT: We'll be ready to go in five minutes.

7 And based on our schedule and the jurors' situation, I can't --  
8 you know, I can't wait 20 minutes.

9 MR. DAVIS: Okay.

10 THE COURT: All right.

11 MR. DAVIS: No problem, Judge.

12 THE COURT: So unless he's here early, we'll just go  
13 a little further with your client, and then we'll take the  
14 break.

15 MR. DAVIS: Okay.

16 THE COURT: All right. Anything else that you need  
17 to bring up today?

18 MR. DAVIS: Yes, I have a document here, it's dated  
19 August 27th. It's from Dreyer Medical Clinic, and this is from  
20 Dr. Theresa Cunningham, and this indicates that Dr. Denean  
21 Adams was under her care. And that the patient would be going  
22 out on a medical leave. Now, this was not included as one of  
23 my exhibits. However, this is a document that was produced by  
24 the District during discovery.

25 THE COURT: Before we go any further, have you --

1 you're showing this now. I'm assuming you have seen this  
2 document?

3 MR. DAVIS: No, we just --

4 THE COURT: Okay. One of my rules was that I didn't  
5 expect you all to step up here and present something to me  
6 without it being presented to each other.

7 MR. DAVIS: I understand, Judge.

8 THE COURT: All right. So you all -- let's put that  
9 to the side till she gets a chance to look at it. You all talk  
10 about it, and then we'll make sure that if -- hopefully you all  
11 can work it out. I mean, that's my plan. That you show them  
12 something, tell them how -- what the issue is, and they might  
13 not have any issue at all. If they do, you can work it out.  
14 Putting that to the side for now. Anything else, Counsel, on  
15 your schedule today? Or again, we're having a regular lunch  
16 time. Somewhere around 12. It will be for an hour, and then  
17 we'll go until maybe 5:00 o'clock. 4:45 to 5:00 o'clock today.  
18 That's the schedule for the Court.

19 MR. DAVIS: Another issue, Judge, that came up  
20 yesterday in light of counsel's opening.

21 THE COURT: All right. Go ahead.

22 MR. DAVIS: I believe she opened the door. She  
23 stated to the jury that my client missed 83 days during the  
24 school year. And, therefore, I think she opened the door to my  
25 being able to explain to the jury that why she missed those 83

1 days. That she was on a medical leave for most of that time.  
2 Starting as this letter indicates August 27th, 2015, she was  
3 under a medical care up and through March of 2016 when her  
4 doctor put her on a unpaid FMLA medical leave.

5 And so I need to be able to give the jury some  
6 context to understand what happened. Otherwise the impression  
7 is she just didn't show up for work. And so I need to be able  
8 to show the jury that beginning after July 10th and going  
9 forward --

10 THE COURT: The Court understands your issue.

11 MR. DAVIS: Okay.

12 THE COURT: Response.

13 MS. SCHWENDENER: Yes, Judge. Plaintiff was not on  
14 an FMLA leave. She did take a medical leave, but it was not  
15 under FMLA. And Miss Cunningham, who is plaintiff's counselor,  
16 who apparently recommended the leave, my understanding is not  
17 going to testify. So I don't -- she was on the list, and I  
18 don't know that she's still going to testify. So I would think  
19 that counsel could probably get that in through Miss  
20 Cunningham's testimony. But we didn't open up the door. We  
21 did indicate that she was -- we did indicate that she was  
22 absent for most of the school year.

23 And I mean counsel certainly can I think refute that  
24 through Miss Cunningham's testimony, but absent presenting Miss  
25 Cunningham on the stand, I don't know -- it would be hearsay

1 and foundation to try to establish through plaintiff the  
2 medical reasons why she was absent for that time frame.

3 THE COURT: Well, I think plaintiff can say why she  
4 was absent.

5 MS. SCHWENDENER: But as far as the --

6 THE COURT: She can say -- first of all, there's no  
7 opening the door in opening statement such as that. She made  
8 an argument. You have every right in your case in chief. I'm  
9 assuming that would be an issue you'd want to front anyway  
10 because even if they didn't say that in opening argument, it  
11 would come out that she had a big gap. And so, you know, as to  
12 any diagnosis or any -- the doctor's note itself, I mean, she  
13 can say she received one. As to the fact that she didn't,  
14 didn't prepare it herself, you know, that would be a problem as  
15 to whether it got in as evidence without them agreeing that she  
16 wrote it. But you can get in that she got a note from the  
17 doctor. She was sick. She can testify to what she knows.

18 MR. DAVIS: Exactly, Judge. And counsel did say she  
19 was out without -- she didn't get treated by a doctor. She  
20 made that point to the jury. And --

21 THE COURT: You can make it, you can make it clear,  
22 Counsel.

23 MR. DAVIS: And --

24 THE COURT: All right. Without referring to her --  
25 again, I tell them at the beginning and at the end opening

1 statements are not evidence. And so I'd be careful about  
2 hitting too hard about what she claims the medical evidence  
3 versus, you know, therapy evidence. That really was not for  
4 them to take under consideration. So --

5 MR. DAVIS: I understand that, Judge.

6 THE COURT: -- you can bring it in. I don't see any  
7 reason why everything except if you don't have authority or a  
8 basis, foundation for the actual letter other than that she can  
9 say she gave a letter to her employers to support her time off.  
10 She can say that. You know, that's part -- you know, and she  
11 has a letter. But as to authenticating the letter, other than  
12 she got it. The contents of the letter that referred to a  
13 specific diagnosis, that she can't. But she can refer to the  
14 letter, be shown the letter, and say yes, that's the letter I  
15 gave to support my time off. She can do all of that.

16 MR. DAVIS: And that's all I want to do that, Judge.

17 THE COURT: You can do all that. That's normal  
18 evidence. So okay.

19 MR. DAVIS: And beyond that, Judge, as I get into my  
20 case, I need to talk to her about what she was experiencing  
21 throughout the rest of the year that caused her to be in  
22 treatment.

23 THE COURT: Counsel, that's your case. If you want  
24 to ask her how she's feeling throughout the case, she's the  
25 only one who can testify to that.



1 MR. DAVIS: Thank you, Judge.

2 THE COURT: Is there anything else that you need to  
3 bring up now for at least the witnesses we have this morning,  
4 which I'm assuming is just the officer and your client?

5 MR. DAVIS: That's correct.

6 THE COURT: All right. And is there any chance that  
7 the other side will get to cross-examination today?

8 MR. DAVIS: Yes.

9 THE COURT: Good. All right. Glad to hear it. Glad  
10 to hear it. Anything else? Let's see. We have our schedule.  
11 Defense, what do you have to bring up?

12 MS. SCHWENDENER: Judge, if I could just make a  
13 response to counsel's comment that he wants to get in how Dr.  
14 Adams was feeling throughout the year, which is fine. I just  
15 want to make sure that we state our objection for the record  
16 that counsel does not go into any disciplinary action or any of  
17 the sham disciplinary proceedings that relate to Count 3 that  
18 has already been dismissed by the Court.

19 THE COURT: That's also -- the Court has dismissed  
20 it. Hasn't it also been the subject of the motion?

21 MS. SCHWENDENER: Yes.

22 THE COURT: And motions in limine?

23 MS. SCHWENDENER: Yes.

24 THE COURT: Then yes. So if it's already been a  
25 decision from the Court, I don't see how counsel can bring that

1 in. Counsel.

2 MR. DAVIS: Well, Judge, I don't want to bring in --  
3 again, we're back to this issue of the pleadings. And, you  
4 know, counsel keeps making this point that because you  
5 dismissed Count 3, all the allegations, all the evidence  
6 pertaining to the retaliation, which we say started in August  
7 and continued through --

8 THE COURT: Hold on one second. All right. Go  
9 ahead.

10 MR. DAVIS: Well, we're back to this issue, Judge, it  
11 makes -- it doesn't make much sense for me to say how were you  
12 feeling during the year and I can't tell the jury why she was  
13 feeling that way. She was feeling that way because she was  
14 constantly being hit with sham discipline --

15 THE COURT: But that you can't bring in. You can  
16 just -- you can -- there's other ways to put this information,  
17 Counsel. And referring to, oh, I was sick because of sham  
18 discipline, that goes directly to --

19 MR. DAVIS: Well --

20 THE COURT: That goes directly to what I dismissed,  
21 and that's not coming out. That's not something they're going  
22 to decide. She can talk about how they treated her. How she  
23 was being treated. Use that word. She can talk about problems  
24 on the job. She was being -- you know, not happy. People  
25 weren't treating her well. She can say things like that, but

1 to say sham discipline, the Court -- that --

2 MR. DAVIS: Well, that's my terminology, Judge.

3 THE COURT: Well, but either -- no, it's not just  
4 your -- I mean, I know. It's part of the -- it was part of the  
5 pleadings, and the Court had addressed it. But that, that  
6 cannot be used.

7 MR. DAVIS: I simply want her to be able to say I had  
8 a proceeding in August where they were giving me performance  
9 directives. In November they gave me a notice to remedy that  
10 outlined a number of things. In December I was suspended with  
11 pay because of a number of things, and throughout this period  
12 she was being treated by a doctor. And that ultimately in  
13 April she did go on a FMLA. The exhibit is in the exhibit list  
14 that she filed an FMLA form. That's all I want to establish,  
15 Judge. I'm not going to talk about the contract nonrenewal. I  
16 just want to establish for the jury what she was experiencing  
17 in context.

18 THE COURT: Response.

19 MS. SCHWENDENER: Yes, Judge. Again, that's getting  
20 back into Count 3, which was already dismissed.

21 THE COURT: Well, wait. Well, the problem is,  
22 Counsel, you just keep going to Count 3. This whole case is  
23 about how she was treated, retaliation. The fact that he chose  
24 to plead it the way he pled it and got -- Count 3 was thrown  
25 out, that does not negate certain facts, which are that this

1 matter was ongoing. Now, as to how he emphasizes each of these  
2 matters, that's a different issue, Counsel. You know, going  
3 through step by step by step of some of the things that  
4 might -- would be either prejudicial -- overly prejudicial and  
5 not relevant, and because they may have been just confined to  
6 Count 3, then yes, you better step cautiously, or the Court --  
7 there may be an objection and the Court grants it.

8 I can't really make a full decision on this because  
9 it's intertwined. It's a job issue. She's being disciplined,  
10 and she wants to talk about how this problem on her job over  
11 several years or over a certain time period has affected her.  
12 But this is really what's left here is about the retaliation  
13 and about what happened after her call for the audit. Am I  
14 correct?

15 MS. SCHWENDENER: Right, Judge. Yes.

16 THE COURT: And so that's why they're saying you  
17 can't just go through all of the step by step disciplinary  
18 issues because all of them are not relevant here anymore,  
19 correct?

20 MS. SCHWENDENER: Correct, Judge. Yes, the, the --

21 MR. DAVIS: Well -- okay. I understand.

22 THE COURT: She can talk about her treatment. She  
23 can talk about her relationship on the job. She can talk  
24 about, you know -- again, you all know the case better than I  
25 do. There's some places where it is going to cross. But to do

1 a step by step by step of disciplinary actions that had nothing  
2 to do with the audit, that have -- that you can show have  
3 nothing to do with the audit, they're listed that she got  
4 disciplined for X, that's not going to be allowed.

5 MR. DAVIS: Judge, we introduced into evidence the  
6 deposition sworn testimony of Tyrone Rogers that everything  
7 they did started with August 18th and was predicated on in our  
8 view the July 10th police statement. And that in his words  
9 everything that happened thereafter was a progression all the  
10 way up to the point where she left the district. Where even at  
11 that point they were still trying to terminate her before the  
12 end of her contract on June 30th. So that's their words. That  
13 evidence is there.

14 THE COURT: Well, it's not -- the evidence is not  
15 here yet.

16 MR. DAVIS: Well, I'm just saying I want to be able  
17 to present that evidence. And if they want to counter it, they  
18 can. I'm not going to present it in the context of saying  
19 Count 3 or it's a separate retaliation claim. I'm simply  
20 trying to show that the retaliation was not confined to  
21 rescinding the contract in August.

22 THE COURT: And is that -- and is that what -- is  
23 that what the -- the retaliation of the audit, of her doing --

24 MR. DAVIS: The retaliation was not based on the  
25 audit, Judge, but based on the police report.

1 THE COURT: And -- well, audit leading to police  
2 report. But it sounds like there's some other stuff here that  
3 you want to get in that have nothing to do with that.

4 MR. DAVIS: Well, all of this -- again, the  
5 progression started from the police report, and at that point  
6 they wanted to get rid of her. They wanted to fire her, Judge.

7 THE COURT: Are you talking about anything that's  
8 happening before the audit?

9 MR. DAVIS: In terms of discipline?

10 THE COURT: Of discipline.

11 MR. DAVIS: No.

12 THE COURT: All right. Counsel.

13 MS. SCHWENDENER: Judge, again it goes to relevance,  
14 and it's going to be prejudicial to my client. The retaliatory  
15 act in response to the police report was rescinding her  
16 one-year contract extension and issuing the performance  
17 directives. That's a part of the complaint, and that's what  
18 plaintiff testified to.

19 THE COURT: Part of the complaint. But I think he  
20 testified to just the overall there's more injury, isn't that  
21 true?

22 MR. DAVIS: Yes, Judge. And --

23 THE COURT: Counsel, I'm not talking to you. I'm  
24 talking to her.

25 MR. DAVIS: I'm sorry.

1 MS. SCHWENDENER: No, plaintiff test -- the  
2 retaliatory act in response to her filing a police report was  
3 the district issuing the performance directive on August 17th  
4 of 2015, and the vote to rescind her contract on August 17th,  
5 2015. Any additional and -- disciplinary acts that came after  
6 that in November of 2015, December of 2015, the nonrenewal of  
7 her contract, the suspension without pay, and issuing a notice  
8 to remedy, plaintiff testified and which was pled in her  
9 complaint was that was in retaliation to her filing the  
10 lawsuit, which is no longer a part of the case.

11 So if plaintiff is allowed to bring in all these  
12 additional retaliatory acts that have nothing to do with the  
13 filing of her police report, it's going to be prejudicial to  
14 the defendants because the jury is going to hear all these  
15 other additional acts that have nothing to do with, with her  
16 filing a police report. And it's, it's going to be prejudicial  
17 to the defendants. It's going to give the presumption that  
18 they took all these additional steps, which really were  
19 relating to the filing of her police report, which has already  
20 been dismissed by the Court.

21 So we're not objecting to how plaintiff was treated  
22 up until the August 17th, 2015 Board meeting or any  
23 disciplinary actions relating up to that point. But to allow  
24 plaintiff to go into how she was treated at the district, you  
25 know, beyond, beyond that is going to give -- going to give the

1 presumption that she continued to be -- that the district  
2 continued to retaliate against her, when that's already been --  
3 that related to the filing of her lawsuit, which is no longer a  
4 part of the case.

5 THE COURT: The filing of her lawsuit versus the  
6 filing of the --

7 MS. SCHWENDENER: The police report.

8 THE COURT: And you distinguish between those two?  
9 Other than obviously in the complaint he had a certain count  
10 that was separate.

11 MS. SCHWENDENER: Correct.

12 THE COURT: And again, that's part of the pleading  
13 too, Counsel. So go ahead and respond. On the other hand, the  
14 Court could open up some rebuttal depending on if you open  
15 doors to make her sound just like a horrible employee across  
16 the board, and they had a reason to get rid of her. That opens  
17 the door to him saying, well, wait a minute. There are all  
18 these -- if he's calling them frivolous actions or actions that  
19 were questionable just because of the fact that she filed a  
20 lawsuit. It all depends on how you paint her also. If you  
21 confine your presentation to that, then maybe he doesn't have  
22 to come back with that.

23 Right now I'm going to make this ruling to be able to  
24 get us started here. And that is that, sir, you are confined  
25 right now not to all of the other disciplines. You are



1 confined to the audit and the police report and the filing of  
2 the police report. Those are the things -- and you can talk  
3 about her medical condition later on, and you can do -- you  
4 know, based on how I was treated at work, a general statement  
5 that this, this happened and I had to take off of work, and I  
6 had a note. And I gave them the note to support that, and it  
7 was from a whatever type of doctor it is. Right now --

8 MR. DAVIS: So we can bring her back on redirect?

9 THE COURT: I'm not saying that you will. I'm saying  
10 right now you can ask for that. Right now we're going to go  
11 ahead with her testimony with the limitations that have been  
12 stated. Even though as far as the document -- and what number  
13 is it, this document?

14 MR. DAVIS: It hasn't been given a number yet, Judge.

15 THE COURT: Okay. Well, let me say the letter dated  
16 what date?

17 MR. DAVIS: August 27th.

18 THE COURT: The letter dated August 27th --

19 MR. DAVIS: 2015.

20 THE COURT: -- of 2015 will be allowed to be used.

21 And just the substance of the letter cannot be set forth  
22 because she's not a doctor and she didn't write the letter, but  
23 she can use the letter and point out why she needed the letter,  
24 and that she gave it to her supervisors and was allowed to have  
25 time off.

1 MR. DAVIS: And that she continued in treatment?

2 THE COURT: Oh, yes, she can say that she continued  
3 in treatment, yes. She just can't as a layperson give the  
4 diagnosis.

5 MR. DAVIS: And she was in treatment because of what  
6 she was going through at her --

7 THE COURT: At work in general? Yes, in general.

8 MR. DAVIS: -- at her job.

9 THE COURT: In general, yes, she can say that. All  
10 right. In general. Okay. She can't go blow by blow about  
11 each disciplinary action. At least not at this point. And,  
12 you know, when we take a break at lunch or before they do their  
13 cross, if you have something more to argue, I'll listen to it.  
14 Okay?

15 MR. DAVIS: Okay, Judge. Thank you.

16 THE COURT: All right. All right. Thank you.

17 MS. SCHWENDENER: Thank you, Judge.

18 THE COURT: Let's get -- are we ready to go? We got  
19 everybody. Everybody is here.

20 (Short break taken.)

21 THE COURT: All right. Anything else on the record,  
22 plaintiff?

23 MR. DAVIS: That's it, Your Honor.

24 THE COURT: Defense.

25 MS. SCHWENDENER: No, Your Honor.

Wright - direct by Davis

1 THE COURT: Dr. Adams, please step --

2 MR. DAVIS: Detective Wright is here, Your Honor.

3 THE COURT: Oh, the detective is going to be first.

4 MR. DAVIS: I asked him to step in.

5 THE COURT: Okay. All right. We're ready. All  
6 right.

7 (Before the jury:)

8 THE COURT: Good morning, ladies and gentlemen. You  
9 may have a seat. All right. Ladies and gentlemen, we are  
10 going to -- we are in the middle of hearing evidence. We are  
11 going to take a brief recess from the plaintiff's testimony.  
12 This is at the plaintiff's request to allow the detective,  
13 who's been called to be here to testify and go back to what his  
14 regular job is. All right. Sir, please step up.

15 ROBERT WRIGHT, PLAINTIFF'S WITNESS, DULY SWORN

16 THE COURT: All right. Keep your voice up. And  
17 obviously you know to wait until objections are made to  
18 continue an answer. All right. And if you need water, it's  
19 there. Proceed, Mr. Davis.

20 MR. DAVIS: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. DAVIS:

23 Q Good morning, Detective Wright.

24 A Good morning, sir.

25 Q I'm Jerome Davis. We've spoken briefly yesterday. I'm

Wright - direct by Davis

1 counsel for the plaintiff Dr. Denean Adams in this lawsuit.

2 Can you state your name and occupation.

3 A Detective Robert Wright, Harvey Police Department.

4 Q And how long have you been with the Harvey Police  
5 Department, Officer?

6 A 10 years January.

7 Q And as part of your job, are you called to routinely go  
8 out on calls, investigate calls, take complaints from citizens?

9 A Yes, I am.

10 Q Okay. And walk me through how that process works if I  
11 want to make a complaint to the police in Harvey.

12 A Okay. If you want to make a complaint, anybody has the  
13 right to file a complaint. They would call what's our  
14 dispatch, 911 Center to say they have a complaint. At that  
15 time dispatch would dispatch a officer to the complainant or  
16 victim depending on what it is to find out what the call is,  
17 and then go from there.

18 Q Okay. And an officer like you might be dispatched to a  
19 call?

20 A Correct.

21 Q And what do you do when you get there? What happens?

22 A You find who the complainant is. Talk with the  
23 complainant and find out what -- if there is a crime that was  
24 committed, and then go from there also.

25 Q Okay. So you make out a report or how do you document --

Wright - direct by Davis

1 A Correct.

2 Q -- your conversation?

3 A Regardless if you -- whatever the complaint is you're  
4 going to make a report regardless. Now, depending on your  
5 report is what you would title it to depend on what the actual  
6 scenario or case was.

7 Q So explain that to me.

8 A So, for example, if you had somebody that, that was shot,  
9 you would pretty much title that a battery right off the bat.

10 Q Okay.

11 A A lot of times your dispatch would know exactly what's  
12 going on before the officer ends up into -- you know, going in  
13 front of that situation so that they're trying to cover  
14 themselves at the same time. Sometimes you have dispatch will  
15 send you to a information call, whereas they're not sure  
16 exactly what the complainant's thought pattern is. So you're  
17 going over to find out what the, what the actual incident is.  
18 And sometimes you have to title it information just to get the  
19 report rolling or get that process going.

20 Q But either way you make a report --

21 A Correct.

22 Q -- when you interview a complainant?

23 A Correct. Yes, sir.

24 Q So drawing your attention to July 10th, 2015. Were you  
25 working for Harvey Police Department then?

Wright - direct by Davis

1 A Yes, I was.

2 Q Okay. And do you -- were you dispatched to go to the  
3 school in Harvey District 152 on July 10th to meet with Dr.  
4 Denean Adams?

5 A Yes, I was.

6 Q And you came -- tell me what happened.

7 A The call was dispatched. My chief, which was Denard Eaves  
8 at the time, who has since retired, dispatched me to go and,  
9 and talk with Dr. Adams to find out what the -- to get  
10 information, because I don't think he was a hundred percent  
11 sure of what was going on. Once I got there, I spoke with Dr.  
12 Adams, and she informed me that she had some issues with one of  
13 the Board members for 152, which I believe it was Tyrone  
14 Rogers, but she wasn't ready to pursue anything at that time.  
15 She just wanted to let me know that there were, you know,  
16 things that, that were said, and she wanted to pretty much  
17 handle it with the Board first or she wanted to present it to  
18 the Board first to see if they could handle it in-house as far  
19 as maybe HR or something of that nature.

20 At that time I had pretty much said no, no problem.  
21 If you decide that you want to, you know, pursue any further,  
22 give me a call back, and I can come back. But I'm going to do  
23 an information report stating that we talked and what had  
24 happened.

25 Q So specifically what did she tell you happened with regard

Wright - direct by Davis

1 to Tyrone Rogers? Do you recall?

2 A Nothing on the 10th. Nothing on the 10th. I think she  
3 was going to hold it for herself because she wanted to talk to  
4 the Board personally before she went any further.

5 Q She didn't tell you what happened? How her interaction  
6 went with Dr. -- I'm sorry, with Tyrone Rogers? She didn't  
7 tell you what he did, what he said, any of that?

8 A She told me it was inappropriate the way he spoke -- what  
9 he had spoke to her, but I never got a quotation of what  
10 actually was said until the 13th.

11 Q Okay. Did you do a report that day?

12 A Yes.

13 Q And if I show you the report, can that refresh you --

14 A It probably would --

15 Q -- on what happened?

16 A -- 'cause it's been about three or four years, so, yes,  
17 sir.

18 Q Okay. Thank you.

19 THE COURT: One second. One second, Counsel.  
20 There's an objection?

21 MS. SCHWENDENER: There's an objection.

22 THE COURT: You need to say it.

23 MS. SCHWENDENER: Objection, Judge, yes.

24 THE COURT: All right. Basis of the objection?

25 MS. SCHWENDENER: Hearsay and inappropriate -- or not

Wright - direct by Davis

1 proper refreshing of a witness' recollection and --

2 THE COURT: Well, first of all, I didn't hear him say  
3 he needed his recollection refreshed until counsel offered to  
4 give him something to refresh his recollection. So on that  
5 basis sustained.

6 BY MR. DAVIS:

7 Q Are you clear on the conversation that you had with Dr.  
8 Adams a couple years ago on the 25th -- July 10th, 2015,  
9 Detective?

10 THE COURT: Do you remember it, sir?

11 THE WITNESS: I remember the conversation.

12 THE COURT: All right.

13 THE WITNESS: By and large.

14 THE COURT: All right.

15 THE WITNESS: I, I couldn't tell you that because I  
16 haven't, I haven't read that report in years. So I know  
17 that --

18 THE COURT: Well, sir, right now we're not asking --

19 THE WITNESS: I'm not sure.

20 THE COURT: -- what the report says.

21 THE WITNESS: Oh, yes, sir -- yes, ma'am.

22 THE COURT: We're asking if you can remember facts --

23 THE WITNESS: The content.

24 THE COURT: -- without the report.

25 THE WITNESS: Say that one more time, please.



Wright - direct by Davis

1 THE COURT: Can you remember facts without the  
2 report? Everything you've testified to answering Counsel's  
3 questions --

4 THE WITNESS: Correct.

5 THE COURT: -- have come from your memory, is that  
6 correct?

7 THE WITNESS: Correct. Yes, ma'am.

8 THE COURT: All right. Has there been any need for  
9 you to look at the report up to this time?

10 THE WITNESS: Not as of yet, no, ma'am.

11 THE COURT: All right. Counsel, ask your questions.

12 BY MR. DAVIS:

13 Q Well, if I ask you specifically what Dr. Adams said, could  
14 you recall that now without looking at the report?

15 A If that be the case, no, not word for word verbatim.

16 Q So if I showed you the report, would that refresh your  
17 recollection --

18 A Yes, it would.

19 Q -- of what she said?

20 A Yes, it would.

21 Q Thank you.

22 THE COURT: Sir, do you have a paper copy for  
23 refreshing recollection? If not, I'll make sure that I just  
24 make sure he sees it only.

25 MR. DAVIS: I do have a paper copy.

Wright - direct by Davis

1 THE COURT: All right. If you have the paper one, it  
2 would be fine. Or if you want to put it up, just warn me so I  
3 can make sure the jury doesn't see it. Only the witness sees  
4 it. This is only for refreshing recollection, so the jury  
5 cannot see it.

6 MR. DAVIS: I will show you a paper copy.

7 THE COURT: Of the report, right? Sir -- so,  
8 Detective, just look over the report, and let us know when you  
9 have looked at it. And then it will be taken away. It's only  
10 to refresh your recollection. It's not for you to read it to  
11 the jury. All right. All right. You finished? All right.

12 THE WITNESS: Yes.

13 THE COURT: Thank you.

14 THE WITNESS: Thank you.

15 BY MR. DAVIS:

16 Q And is that your report?

17 A Yes, it is.

18 Q And what's the date on it? The date that you made this  
19 report.

20 THE COURT: It would be the same -- go ahead.

21 THE WITNESS: It was in July of 2015.

22 BY MR. DAVIS:

23 Q You want to see -- you want to look at it again?

24 A Yeah, I wasn't looking at the date. I was just --

25 THE COURT: Well, the question is I guess, sir, to

Wright - direct by Davis

1 move this along, was it the same day that you saw her --

2 THE WITNESS: Yes, same, same day.

3 THE COURT: -- or the next day? Can you give us  
4 that?

5 THE WITNESS: No, same day.

6 THE COURT: All right.

7 THE WITNESS: Same day, yes. Yes. Yes.

8 BY MR. DAVIS:

9 Q Okay. So now that you've had a chance to look at the  
10 report, can you tell me what Dr. Adams said to you?

11 A She had had a verbal -- she had a verbal confrontation  
12 with Tyrone Rogers, and she felt that it was inappropriate.

13 Q Were those her exact words? Is that what you documented  
14 in your report?

15 A Correct.

16 Q Does it say inappropriate, or does she say what he said to  
17 her?

18 A No, it says inappropriate. It doesn't say what she said  
19 because that wasn't told till three days later.

20 MR. DAVIS: Well, now, Judge, I'm going to have to  
21 ask to for impeachment purposes read the report, because I  
22 don't see anywhere in the report where it says inappropriate.  
23 I see --

24 THE COURT: Counsel.

25 MS. SCHWENDENER: Objection.

Wright - direct by Davis

1 THE COURT: Counsel, let's step to the side. Step to  
2 the side.

3 MR. DAVIS: Okay.

4 (Sidebar proceedings out of the hearing of the jury:)

5 THE COURT: You're impeaching your own witness?

6 MR. DAVIS: At this point actually I see where he did  
7 say inappropriate. So I'm not going to do that. I'm going to  
8 withdraw that, Judge.

9 THE COURT: Okay. Thank you.

10 MR. DAVIS: It's in the next report.

11 THE COURT: Okay. Thank you.

12 (Before the jury:)

13 BY MR. DAVIS:

14 Q Okay. Back, Detective Wright. So you were saying that  
15 you met with Dr. Adams and she told you -- say again what you  
16 just said.

17 A Say again which part?

18 Q What did she tell you happened?

19 A She had a conversation with Tyrone Rogers which she felt  
20 was inappropriate.

21 Q Okay. And you testified she told you she didn't want to  
22 file a police report at that point. She wanted to try to work  
23 it out with the Board members?

24 A Correct.

25 Q And you told her if she later changed her mind, call you

Wright - direct by Davis

1 back?

2 A Correct.

3 Q And this was on Friday, July 10th, correct?

4 A Correct.

5 Q Did you have -- were you working on July 13th, 2015?

6 A Yes, I was.

7 Q The following Monday in Harvey?

8 A Yes, I was.

9 Q Did you have an occasion to receive a call from Dr. Denean  
10 Adams to be dispatched again to the school?

11 A No, I did not. No, sir.

12 Q Okay. Did you meet with Dr. Adams on July 13th?

13 A Yes, I did.

14 Q And how did that come about?

15 A My chief of police Denard Eaves told me to --

16 MS. SCHWENDENER: Objection, hearsay.

17 THE COURT: I'm sorry. As to what his chief told  
18 him. Just tell us what happened next without telling us who  
19 told you what to do. You can't say what the chief told you to  
20 do. You can say you talked to your chief, and then what you  
21 did. Do you understand?

22 THE WITNESS: Yes. It's like it's --

23 THE COURT: You cannot say what someone else told  
24 you. That's objectionable.

25 THE WITNESS: I responded to a call.

Wright - direct by Davis

1 THE COURT: Okay.

2 THE WITNESS: To go to see Dr. Adams.

3 BY MR. DAVIS:

4 Q Okay. And you went back to the school, right?

5 A Correct.

6 Q And you met with Dr. Adams?

7 A Correct.

8 Q And what did she tell you at that meeting?

9 A I can't recollect unless I get a chance to look at that  
10 report.

11 MR. DAVIS: May I, Judge.

12 THE COURT: And which report is it? Is it another  
13 report?

14 THE WITNESS: It's the 13th. Yes, the second report  
15 that I wrote.

16 THE COURT: All right. The second report. You may  
17 approach. Are you complete with the report, sir?

18 THE WITNESS: Yes.

19 THE COURT: All right. Thank you.

20 BY MR. DAVIS:

21 Q And this is a report again that was authored by you,  
22 right --

23 A Correct.

24 Q -- Detective Wright?

25 A Correct.

Wright - cross by Schwendener

1 Q What did Dr. -- based on what you read in the report, what  
2 transpired when you met with Dr. Adams on the 13th?

3 A She informed me that she spoke with the school district  
4 and they advised her to pursue any avenues that she wished to  
5 pursue. And that's when she informed me about what the actual  
6 statement was that Tyrone Rogers made to her, which I put in  
7 parenthesis and quotations, you're itching for an ass whipping.

8 Q And did she tell you how that statement came about?

9 A Yes. She told me because she was doing an audit of 152,  
10 District 152's financial background, which I'm not sure of what  
11 that entails.

12 MR. DAVIS: Thank you, Detective. No further  
13 questions.

14 THE WITNESS: Yes, sir.

15 THE COURT: All right. Any cross-examination?

16 MS. SCHWENDENER: Thank you, Judge.

17 CROSS-EXAMINATION

18 BY MS. SCHWENDENER:

19 Q Good morning, Detective.

20 A Good morning. How are you?

21 Q No criminal charges were filed against Mr. --

22 MR. DAVIS: Objection, Judge. Beyond the scope of my  
23 direct. My direct went to --

24 THE COURT: Counsel, there's no speaking objections.

25 MR. DAVIS: I'm sorry, Judge.

Wright - redirect by Davis

1 THE COURT: Beyond the scope, overruled. This is  
2 cross-examination. She can ask.

3 BY MS. SCHWENDENER:

4 Q No criminal charges were filed against Mr. Rogers in  
5 response to the alleged threat against Denean Adams, correct?

6 A No, not at that time, no.

7 MS. SCHWENDENER: Thank you. No further questions.

8 THE COURT: Redirect.

9 MR. DAVIS: Yes, Judge.

10 REDIRECT EXAMINATION

11 BY MR. DAVIS:

12 Q Does the fact that no criminal charges are filed mean that  
13 you determined that Tyrone Rogers didn't do what Dr. Adams said  
14 he did?

15 A Not at all, sir.

16 MR. DAVIS: Thank you.

17 THE COURT: Anything else?

18 MS. SCHWENDENER: No, Your Honor.

19 THE COURT: Thank you, Detective, for waiting for  
20 today.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Appreciate it.

23 (Witness excused.)

24 THE COURT: All right. Dr. Adams, you may retake the  
25 stand. Watch your step. You're already sworn, ma'am.



Adams - direct by Davis

1 THE WITNESS: Thank you.

2 THE COURT: All right. Same rules apply as  
3 yesterday.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Anytime you're ready, Mr. Davis.

6 DR. DENEAN ADAMS, PLAINTIFF, PREVIOUSLY SWORN

7 DIRECT EXAMINATION (Resum ed)

8 BY MR. DAVIS:

9 Q Good morning, Dr. Adams.

10 A Good morning.

11 Q We just heard Detective Wright talk about meeting with you  
12 on the 10th at the school. What happened after you met with  
13 Detective Wright on the 10th?

14 A On July 10th, on July 10th after meeting with Detective  
15 Wright I received a visit from one of the board members Janet  
16 Rogers, who --

17 Q Let me stop you. Do you see Janet Rogers?

18 A I do.

19 Q I see she came to court today. She didn't --

20 THE COURT: Counsel.

21 MR. DAVIS: I'm sorry, Judge.

22 BY MR. DAVIS:

23 Q Do you see Janet Rogers in court?

24 A Yes, I do.

25 Q Would you point her out for the jury.

Adams - direct by Davis

1 A Yes, she is second in the first row on the defendants'  
2 side.

3 Q Thank you.

4 A You're welcome.

5 Q Continue, please.

6 A So on July 10th after speaking with Detective Wright, I  
7 received a visit from board member Janet Rogers, who came to my  
8 office at that time and shared with me that she was -- that she  
9 wanted to have a special board meeting, and that during that  
10 special board meeting she had some concerns about my  
11 performance and she wanted to address specifically an issue  
12 with Echo. Echo was the co-op that we shared services with for  
13 special education students in the district.

14 Q Okay. And she was telling you this so you could put --  
15 call together the meeting?

16 A Correct. So the normal procedure was that you would  
17 inform the superintendent and you would inform the board  
18 president as well. At that time my board president was Gloria  
19 Johnson. And so she -- I can't remember if she said she had  
20 spoken with President Johnson already. But she did say that  
21 they were going to schedule a special board meeting.

22 Q Is Miss Johnson in court today?

23 A Yes, sir.

24 Q Could you point --

25 THE COURT: Please use first names and Johnson

Adams - direct by Davis

1 together. We have too many Johnsons.

2 MR. DAVIS: Okay.

3 BY MR. DAVIS:

4 Q Is Gloria Johnson --

5 A Oh, I'm sorry. Yes, Gloria Johnson.

6 Q Can you point her out?

7 A Yes. Former President Gloria Johnson is sitting in the  
8 first seat on the defendants' side.

9 Q Thank you. So --

10 THE COURT: I'm sorry. With the cap on?

11 THE WITNESS: With the cap, yes, ma'am.

12 BY MR. DAVIS:

13 Q Okay. So what happened -- again, we're still on  
14 July 10th -- after your meeting with Janet Rogers?

15 A After that meeting with her, it was a very brief meeting.  
16 Just an exchange of information there. And then because it was  
17 the summer, we were on half days for Fridays, and so at that  
18 point I do believe the office was closed, and we were able to  
19 go home at that point. And that was the end of that exchange  
20 with her on the 10th.

21 Q Okay. Did you subsequently have any other communication  
22 with her or from her --

23 A Yes, I --

24 Q -- on that day?

25 A I later received an e-mail copy of the items that she

Adams - direct by Davis

1 wanted placed on the agenda for that meeting. That special  
2 meeting that was being called.

3 Q And I'm going to show you what we have labeled as  
4 Plaintiff's Exhibit --

5 THE COURT: 10?

6 MR. DAVIS: 15 actually. I clicked on the wrong one.  
7 Exhibit -- Plaintiff's Exhibit 15. And can I publish this,  
8 Your Honor.

9 THE COURT: First you can publish it to the --

10 MR. DAVIS: Can you see it, Dr. Adams?

11 THE COURT: Now she can.

12 THE WITNESS: Yes.

13 THE COURT: All right. Any objection to publishing  
14 Exhibit 15?

15 MS. SCHWENDENER: No, Your Honor.

16 THE COURT: All right. Thank you. Proceed.

17 BY MR. DAVIS:

18 Q So can you describe what this is, Dr. Adams.

19 A Yes. That was a copy of the e-mail or the attachment to  
20 the e-mail that I received on July 10th following that meeting  
21 in the office, in my office. And it identified for me and for  
22 President Gloria Johnson the items that Mrs. Rogers was  
23 requesting be placed on the agenda for the special board  
24 meeting that was scheduled on July 22nd.

25 Q And where it says under executive session I would like to

Adams - direct by Davis

1 include the following, can you read those two bullet points?

2 A Yes. The first one says, review of superintendent's  
3 personnel file. And the second bulleted item says possible  
4 disciplinary action against a central office administrator.

5 Q Okay. Thank you. And so Detective Wright testified that  
6 he met with -- so after the 10th -- the 10th was a Friday,  
7 right?

8 A Correct, yes.

9 Q So you told him -- we heard what he said you told him?

10 A Yes.

11 Q What happened after that during the weekend?

12 A So over the weekend I felt -- I, I had conversations with  
13 my husband, my family and just shared with them what happened.  
14 I was very upset about the conversation. Having received that  
15 response from a board member about the audit and then a  
16 subsequent meeting from his wife about where we were going to  
17 go or what we were going to do next. Or the action that I felt  
18 that they were going to start or take with me. So I was pretty  
19 distraught by that. I had been in the district for two years  
20 and just felt like if -- I'm sorry.

21 THE COURT: Excuse me.

22 THE WITNESS: I'm sorry.

23 THE COURT: Counsel, we need a question. She can't  
24 just --

25 THE WITNESS: I'm sorry.

Adams - direct by Davis

1 MR. DAVIS: Okay.

2 THE WITNESS: I'm sorry.

3 THE COURT: No. No. You're fine.

4 BY MR. DAVIS:

5 Q Thank you, Dr. Adams. You spoke with your family about  
6 the incident, right?

7 A Yes. Correct.

8 Q And did you make any decisions with your family?

9 A I did. I decided that I was going to pursue a police  
10 report on Monday when I returned to work. I felt threatened.  
11 I felt that my safety was a concern in that district at that  
12 point, and I wanted to make a record of what had occurred.

13 Q So what did you do?

14 A So on the 13th I reached out to -- I did contact the  
15 police chief and I believe I also contacted Detective Eaves --  
16 I'm sorry, Detective Wright. And subsequently Detective Wright  
17 came to my office. I told him I wanted to follow up with him  
18 from our conversation from Friday.

19 Q Now, let me back up. You told Detective Wright when you  
20 first met him you wanted to try to work it out with the board.  
21 What did you do in connection with that?

22 A I did. So on Friday sometime between -- after the time --  
23 I believe it was after the time I left the office, I did reach  
24 out to President Gloria Johnson to have a conversation with  
25 her. I shared with her -- she wasn't available, but she called

Adams - direct by Davis

1 me back later that day, that evening on Friday. So in our  
2 conversation I shared with her what happened on that Thursday  
3 with Mr. Rogers, the threat that I had received. And I asked  
4 her if she could take the matter up with the board, and she  
5 said she would look into it. I don't remember her exact words,  
6 but I know she said she would have some conversations or  
7 something. And, and I'm assuming that she did at that point.

8 Q So after that conversation, between then and Monday did  
9 you ever hear from Gloria Johnson again or any board member?

10 A I believe I spoke with Gloria Johnson again, and she  
11 shared with me when I talked with her the second time that she  
12 had spoken with Mr. Rogers, and that he did not admit saying  
13 those things to me. And she said if he -- the first step to  
14 solving a problem is that a person has to admit that there's a  
15 problem. Those were the words that she said to me. And then  
16 she -- and that was it, and that was the extent of our  
17 conversation.

18 Q So how did you feel after that? Did you feel --

19 A Yes, I felt like I needed to -- I felt threatened again.  
20 I felt like it was on me. I needed to take care of this  
21 situation myself. That's how I felt.

22 Q So what did you do next?

23 A So then that was part of my decision for moving forward  
24 with trying to file a formal police report. Again, to  
25 solidify, document what had transpired in the district or from

Adams - direct by Davis

1 that phone call.

2 Q And after you met with Detective Wright on the 13th, did  
3 you have any other contact or communication from Janet Rogers?

4 A I did. On July 13th I received a revised agenda for the  
5 upcoming meeting on July 22nd. And it went to myself and I  
6 believe it was also sent to our then board president Miss  
7 Gloria Johnson.

8 MR. DAVIS: And I'm going to show the witness  
9 Plaintiff's Exhibit 16.

10 THE COURT: Any objection to publishing 16?

11 MR. PETRARCA: Can we see the whole thing, Your  
12 Honor.

13 THE COURT: You can go ahead and start asking  
14 questions.

15 MS. SCHWENDENER: Yes, no objection.

16 THE COURT: There is no objection?

17 MS. SCHWENDENER: No objection.

18 THE COURT: All right.

19 BY MR. DAVIS:

20 Q So can you see item 16, Dr. Adams?

21 A I can, yes.

22 Q And what is this?

23 A That was the revised items for the upcoming special board  
24 meeting that was scheduled for July 22nd.

25 Q And this is from?



Adams - direct by Davis

1 A This was from Janet Rogers.

2 Q Okay. And basically what, what is she saying here? We  
3 could all read it, but summarize it for us.

4 A Basically this was a list of all the items that she wanted  
5 placed on the agenda to be discussed at the, the upcoming  
6 meeting.

7 Q And she wanted the attorney to be present --

8 A Correct.

9 Q -- at the meeting?

10 A Correct.

11 Q Okay. And so yesterday counsel indicated that Attorney  
12 Izzo, the board -- who is Attorney Izzo?

13 A Attorney Izzo was one of the board's attorneys. He often  
14 sat in our board meetings. He provided counsel to the board as  
15 a board.

16 Q Okay. And yesterday counsel indicated that you asked him  
17 to come to the special board meeting on the 22nd. Do you  
18 remember that?

19 A I remember the statement, yes.

20 Q And the statement -- she also talked yesterday saying that  
21 Attorney Izzo advised the board that the contract extension  
22 wasn't effective. You remember that?

23 A I remember that statement.

24 Q And counsel indicated that you were the one who wanted him  
25 to come to the meeting to discuss that on the -- at the special

Adams - direct by Davis

1 board meeting on the 22nd, is that correct?

2 A That's what was said yesterday. However, that's not  
3 accurate.

4 Q Okay. What really happened?

5 A So I received concerns, complaints in addition to Mr.  
6 Rogers' threat, but also a couple of other board members that  
7 talked about the scope of the audit that had been -- the RFP,  
8 the request for the proposal for the audit. And that the scope  
9 of that audit was so broad and it had included specifically in  
10 No. 1 an investigation with -- that involved board members.  
11 And so what I was told to do was to ask -- I'm sorry. Ask  
12 Attorney Izzo to attend the meeting so that we could talk about  
13 item No. 1 from that, that request for a proposal to clarify  
14 what exactly that scope would mean, what it might look like,  
15 and if we needed to, in fact, take it out of the RFP, the  
16 proposal.

17 MR. DAVIS: So I'm showing the witness, Your Honor,  
18 exhibit -- Plaintiff's Exhibit 19. I'd like to publish also to  
19 the jury.

20 THE COURT: All right. First of all, is there any  
21 objection to publishing? And, Counsel, you don't have to wait  
22 for the publishing. If you want to start asking her questions,  
23 you can once she sees it.

24 MR. DAVIS: Okay.

25 THE COURT: Publishing can always come up later. Is

Adams - direct by Davis

1 there an objection?

2 MS. SCHWENDENER: No objection.

3 THE COURT: All right. Thank you.

4 BY MR. DAVIS:

5 Q Can you see Exhibit --

6 THE COURT: She can. She's been able to see it since  
7 you called it up.

8 MR. DAVIS: Okay.

9 THE WITNESS: Yes.

10 BY MR. DAVIS:

11 Q What is this, Dr. Adams?

12 A That is a copy of the e-mail that I sent to Attorney Izzo  
13 on July 19th requesting that he does attend the meeting, but  
14 it's specifically to address the proposal that was sent out  
15 to -- for the forensic audit. And this was at the request of  
16 the board members.

17 Q So what does it mean I've heard complaints regarding No.  
18 1? Refresh us. What was No. 1? What does that mean?

19 A No. 1 from the proposal dealt with an investigation of  
20 looking into the financial interactions, dealings from the  
21 board members, current and past board members. And so the  
22 scope included those pieces relating to the board.

23 Q And so who were you getting complaints from about that?

24 A I received complaints from a couple of board members. I  
25 specifically remember Mr. and Mrs. Rogers having some concerns

Adams - direct by Davis

1 with it being with the board members being included in that.

2 At the time President Gloria Johnson shared that she thought

3 the scope was so broad, and we needed to narrow the scope of

4 the forensic audit. I think those were the three. Those are

5 the three that I recall getting complaints from.

6 Q And yesterday counsel said Tyrone Rogers wanted the audit.

7 He commended you on having the audit, right?

8 MS. SCHWENDENER: Objection.

9 BY MR. DAVIS:

10 Q Do you recall that?

11 THE COURT: Objection, basis?

12 MS. SCHWENDENER: Misstates the --

13 THE COURT: Opening statement.

14 MS. SCHWENDENER: -- opening statement.

15 THE COURT: All right. Yes, Counsel, it's  
16 inappropriate questions to continue to refer to what counsel  
17 said in opening statement. The jury has been already  
18 instructed opening statement is not evidence. Proceed.

19 BY MR. DAVIS:

20 Q Okay. Well, let me play something for you, Dr. Adams.

21 This is going to be a audio tape from the retreat in June of  
22 2015. I've already shared these tapes with counsel.

23 THE COURT: Thank you.

24 MR. DAVIS: This is going to be our Exhibit 71. This  
25 is going to be volume VN810183. And it's from the June 2015 --

Adams - direct by Davis

1 MS. SCHWENDENER: Objection, Your Honor.

2 THE COURT: Basis? Did you have an objection to this  
3 before?

4 MS. SCHWENDENER: I did, Your Honor, yes.

5 THE COURT: All right. And before meaning in the  
6 motions in limine?

7 MS. SCHWENDENER: Yes.

8 THE COURT: You want to give me the number. Counsel,  
9 if this matter was objected to, why are we bringing it up if  
10 this Court ruled?

11 MR. DAVIS: Because Your Honor only ruled that we  
12 would need to have a foundation laid. You didn't rule that the  
13 tapes were inadmissible.

14 THE COURT: All right.

15 MR. DAVIS: And you asked the parties --

16 THE COURT: All right. Thank you. I'm trying to  
17 find out where it is in my order. Counsel, is there a way you  
18 can go on and ask another set of questions while I look this  
19 up?

20 MR. DAVIS: Sure.

21 THE COURT: Thank you.

22 BY MR. DAVIS:

23 Q So you remember at the retreat when you first brought up  
24 the audit, right? You addressed the board?

25 A Yes, I do.

Adams - direct by Davis

1 Q And every -- all of the board members were present, all  
2 the defendants in this case?

3 A Yes, they were.

4 Q Including Tyrone Rogers?

5 A Yes, he was.

6 Q And what was Tyrone Rogers' response when you said you  
7 wanted to have the audit?

8 A Mr. Rogers was fine with that. He actually said that it  
9 was a good thing that I was looking out for the money of the  
10 district or something along those lines. But he did say he  
11 thought it was a good idea to go ahead and proceed with an  
12 audit at that point.

13 Q And this is June 2015, correct?

14 A This was June of 2015, correct.

15 Q Did Mr. Rogers' view change after June 2015?

16 MS. SCHWENDENER: Objection.

17 BY MR. DAVIS:

18 Q Let me ask it this way: You submitted or circulated the  
19 actual -- so the board gave you permission, said go ahead do  
20 this. And then what did you do?

21 A So the board gave me permission at the retreat to go ahead  
22 and put together the RF -- the proposal so that we could get  
23 someone to come in and complete the audit. So from June --  
24 from the retreat through July 9th is when I worked on drafting  
25 the proposal for the audit. On July 9th is when the audit was

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1 actually circulated to the board members.

2 Q Right. And we've gone over --

3 A Yes.

4 Q -- Mr. Rogers' reaction to that.

5 A Yes.

6 Q So at the July 22nd --

7 MR. DAVIS: What I'd like to publish, Judge, is  
8 Tyrone Rogers at the July -- at the June retreat which Dr.  
9 Adams just testified about, and I'd like to publish him at the  
10 July 22nd board meeting.

11 THE COURT: And again, you're talking about audios?

12 MR. DAVIS: Yes.

13 THE COURT: All right. And the Court has stated that  
14 without proper foundation of what the state of the tape is, her  
15 knowledge of the tape as a true and accurate recording, under  
16 what circumstances it was recorded, and when it was recorded.  
17 That has to be a foundation you have to lay with the jury here.

18 MR. DAVIS: Right. I understand that, Judge.

19 THE COURT: All right.

20 MR. DAVIS: But you also --

21 THE COURT: And I reserved the ruling until I heard  
22 that you --

23 MR. DAVIS: Right.

24 THE COURT: -- you did that.

25 MR. DAVIS: And you also said that the lawyers should

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1 get together during the pretrial conference --

2 THE COURT: Counsel, let's have a sidebar.

3 MR. DAVIS: Okay.

4 (Sidebar proceedings out of the hearing of the jury:)

5 THE COURT: You can't keep making statements that are  
6 general. Either ask for a sidebar. When you start talking  
7 about what the lawyers said, the jury doesn't need to hear all  
8 this.

9 MR. DAVIS: Okay, Judge.

10 THE COURT: That's an inappropriate comment in front  
11 of the jury.

12 MR. DAVIS: Okay.

13 THE COURT: All right. So yes, I said the lawyers  
14 should get together. If you don't get together --

15 MR. DAVIS: And I gave her the list, Judge.

16 THE COURT: But if you don't get together, either you  
17 have to -- if you know he's going to go and try it or if you  
18 want to continue to try it, somebody needs to tell me that  
19 before I bring the jury out.

20 MR. DAVIS: She didn't object to the list, Judge.

21 MS. SCHWENDENER: That's not correct, Counsel.

22 THE COURT: I've got in writing she objected if a  
23 foundation wasn't laid, and asked this Court to reserve it  
24 until then. So it's in my order.

25 MS. SCHWENDENER: It's number --



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1 MR. DAVIS: After you issued your order at the  
2 pretrial conference, you said lawyers do this everyday, and you  
3 didn't want to get involved. You wanted a stipulation. I then  
4 circulated to her a list of the tapes.

5 MS. SCHWENDENER: That's not --

6 MR. DAVIS: She didn't respond with any objection  
7 saying that she had a problem with the tapes or the  
8 authenticity of the tapes. And so I expected when I came in  
9 here today, that I'd be able to play the tape.

10 THE COURT: I understand exactly -- wait a minute. I  
11 understand what he's saying. If there was no nailing down of  
12 your positions. But, on the other hand, Counsel, that doesn't  
13 mean she abdicated. You just went ahead and assumed that  
14 because she didn't respond the way you wanted to that she was  
15 saying yes. From here on out please both sides know, you all  
16 are very contentious, you're very adversarial, the chances of  
17 somebody agreeing to something by silence are slim to none. So  
18 if you want to make sure you don't have this kind of  
19 interruption, which will definitely delay this trial probably  
20 past Tuesday, then you need to address those things.

21 Judge, I just want to make sure there's no problem  
22 with me getting in the tapes because I am going to use them.  
23 We can have it out before the jury comes in. Or, Judge, we  
24 want to make sure he's not playing those tapes that he referred  
25 to, and you can have it out right then. Otherwise we'll be

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1 doing sidebars all day long. And right now we've done more  
2 sidebars just in these two days than I've done in my last three  
3 trials. All right.

4 MR. DAVIS: And I've got a lot of tapes, Judge.

5 THE COURT: So --

6 MR. DAVIS: And I don't want to waste a bunch of time  
7 every day --

8 THE COURT: Well, first of all --

9 MR. DAVIS: -- arguing about these tapes.

10 THE COURT: -- if you have a lot of tapes, then  
11 that's an issue. And that's also something we should have  
12 dealt with with the scheduling of this trial. What you were  
13 talking about is not a six-day trial. You're talking about a  
14 two-week trial on a very simple set of issues. And so, you  
15 know, I don't know. We're going to have to figure out  
16 something. I looked up the train reports. Round Lake is an  
17 hour and 40 minutes by train. She only has certain trains she  
18 can take.

19 MR. PETRARCA: Who's this, Your Honor? I'm sorry?

20 THE COURT: This is one of the witnesses --

21 MR. PETRARCA: Oh, I'm sorry.

22 THE COURT: One of the jurors.

23 MS. SCHWENDENER: The jurors.

24 THE COURT: So, you know, she has to -- if she leaves  
25 at 5 -- she does have school age children. If she leaves at

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1 5:15 or a 5:25 train, she doesn't get home till 7 every night.  
2 She doesn't get to her town and her car till 7. So this is not  
3 a case I can keep pushing until 6 or 7 every night. I can't do  
4 that. She has to leave 5:30 in the morning to get here for  
5 your trial. So either we're going to be one less juror, which  
6 I don't have a problem with because we can go down to six. But  
7 I'm just letting you know you're stretching this out. You  
8 know, and I can only -- you know, I've got court calls. I can  
9 only keep switching stuff.

10 MS. SCHWENDENER: Judge --

11 MR. DAVIS: I had hoped to work this out, Judge. As  
12 I said, I gave them all of the tapes.

13 THE COURT: Right now what's your, what's your  
14 objection to a fourth tape? What's the objection?

15 MS. SCHWENDENER: Well, Judge, first of all, we -- I  
16 did ask counsel at the pretrial conference to send me the -- he  
17 just identified four tapes that he wants to show the jury. He  
18 did not identify the dates, the, the portions. I have no  
19 idea --

20 THE COURT: Step back.

21 (Before the jury:)

22 THE COURT: All right. Ladies and gentlemen, please  
23 rise. All right. We're going to handle this, so you can relax  
24 while we handle this. We'll take about 10 minutes. Please  
25 step out.

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1 (Jury excused.)

2 THE COURT: All right. Ma'am, you're under oath.

3 Step down, step outside the doors. Thank you.

4 (Brief pause.)

5 THE COURT: All right. So there's how many tapes,  
6 four?

7 MR. DAVIS: There's a list. It must be a dozen  
8 tapes, but I'm not talking about playing the whole tapes,  
9 Judge. I'm talking about small snippets.

10 THE COURT: Okay. So --

11 MR. DAVIS: Some of them 30 seconds out of 12  
12 different tapes.

13 THE COURT: So this is what I want done within less  
14 than five minutes, get your lists of tapes, sit down on the  
15 same side, and you talk about the tapes real quick, and then  
16 I'll come back out. All right.

17 MR. DAVIS: Thank you, Judge.

18 (Short break taken.)

19 THE COURT: All right. First of all, Counsel, Mr.  
20 Davis, did you get a -- were you able to read the Court's  
21 ruling while you were out on this issue, on the motions in  
22 limine?

23 MR. DAVIS: The motion in limine, Judge?

24 THE COURT: Yes.

25 MR. DAVIS: No, I haven't looked at it since it

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1 was -- we first dealt with it.

2 THE COURT: All right. The Court would suggest you  
3 have it nearby during trial. But defendant's motion No. 14, as  
4 I was saying on the side, specifically as to barring any of the  
5 closed session audio recordings, and that's what we're talking  
6 about, right?

7 MR. DAVIS: Right.

8 THE COURT: It says here, first of all, the Court  
9 would reserve this ruling until you can demonstrate foundation,  
10 authentication, identification of the speakers, and a  
11 permissible basis for the admissibility. It's the last part  
12 that you may not have focused on, the permissibility. I'm  
13 assuming, first of all, she sued the board members; is that  
14 correct?

15 MR. DAVIS: Yes.

16 THE COURT: And the majority of them are here, or  
17 they're either available to be here. She's here. So on what  
18 basis would the -- would it be able to be brought in in the  
19 case in chief when everybody's here to testify to what  
20 everybody said?

21 MR. DAVIS: If I could address first your order,  
22 Judge. I read your order thoroughly. I understood your order.  
23 And you said you would reserve the issue. You didn't say no  
24 tapes would come in.

25 THE COURT: No. I said I'd reserve it.

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1 MR. DAVIS: Yes.

2 THE COURT: If there's -- it's been either way, but  
3 they've already stated an objection.

4 MR. DAVIS: Right.

5 THE COURT: But even still, reserve my ruling. I  
6 focused on the last words permissible basis for admissibility.

7 MR. DAVIS: I understand, Judge.

8 THE COURT: The Court just asked you a question. I  
9 don't want you to go back. I want you to answer what's the  
10 admiss -- basis for admissibility of the tapes.

11 MR. DAVIS: They are admissions, Judge. And they are  
12 admissions of parties. And, therefore, they're not hearsay,  
13 and they would come in as admissions of a party to go to  
14 showing their intent and what they did and why they did what  
15 they did.

16 THE COURT: And you think that should be able to come  
17 in regardless of whether the people are here to actually  
18 testify to it?

19 MR. DAVIS: Well, they would come in for impeachment.

20 THE COURT: Impeachment, there you go. The Court  
21 totally agrees with that. Even though there still has to be  
22 some authentication. Meaning you have to show they're showing  
23 who they are on the tapes, or there's some way to tell that  
24 each person is who they are who's on the tapes. You have to be  
25 able to show the date. You have to be able to show who took

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1    them, all of that, which I'm assuming -- and that's why I was  
2    asking, if it's a closed session audio, that you all should be  
3    able to work -- that was one reason I said that, I'm sure these  
4    are not just like phone tape -- cellphone tapes.

5               MR. DAVIS: Right. And that's what I've tried to do,  
6    Judge.

7               THE COURT: They are regular -- but bringing them in  
8    in your case in chief when she can testify to what was there,  
9    impeachment is one thing. Case in chief is something else.  
10   And so that's -- that is not admissible. That's not seen as  
11   best evidence when it's only the tapes. This isn't a, a  
12   shakedown of a drug buy where people have to see what's going  
13   on. Or there's some other unidentified or, you know,  
14   confidential informant that's not in front of the Court.

15              MR. DAVIS: I don't think admissions, Judge, are  
16   limited to impeachment.

17              THE COURT: Well, what's your case for that?

18              MR. DAVIS: I think admissions are broadly used. I  
19   cited cases in my papers saying that admissions is the heart of  
20   the adversarial system.

21              THE COURT: And, Counsel, the Court did not say you  
22   couldn't use admissions. The Court said tapes versus -- where  
23   she's the witness here, she can testify to what any of these  
24   defendants said. She can say however it is. If someone else  
25   says it and it's not correct, you can impeach them on it. You

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1 can use it as rebuttal if someone says something later on that  
2 you say the tapes don't say. I don't even need a witness on.  
3 You're right, you could play the tape in rebuttal.

4 But for case in chief for you to go through tape by  
5 tape with someone who was there and who can say what was said,  
6 this Court believes is inappropriate, and unless you have case  
7 law to show me otherwise.

8 MR. DAVIS: Judge, I was going to do it because  
9 counsel frankly misrepresented to the jury in my opinion --

10 THE COURT: Counsel, she can't -- but it's opening --

11 MR. DAVIS: -- yesterday. I understand it was  
12 argument, but people are people. And I just don't think  
13 lawyers should just throw things out there that they know  
14 aren't true. And forgive me, that's my view ethically and as a  
15 professional.

16 THE COURT: All right.

17 MR. DAVIS: And I wanted to be able to convey to the  
18 jury what this man said and put it in context. Now --

19 THE COURT: You will be able to convey to the jury  
20 what this man said by asking your client.

21 MR. DAVIS: And I'll do that, Judge. And I'll  
22 reserve the tape for when he's on the stand.

23 THE COURT: All right.

24 MR. DAVIS: And in the interim I will once again try  
25 and work out with counsel stipulations to avoid these delays,



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1 which I understand is impingent upon the Court's valuable time.

2 THE COURT: It's not the Court's valuable time. I'm  
3 here. It's really the jury's time. We want to make sure we  
4 don't lose the jury, and we want to make sure the jury -- their  
5 time is put to use. The Court is here.

6 MR. DAVIS: I understand, Judge.

7 THE COURT: The Court is here. It's not -- my time  
8 is the taxpayers' time, you know. Except for a cemetery issue  
9 on Monday, I'm here. All right. Counsel.

10 MS. SCHWENDENER: Judge, just for the record, counsel  
11 continues to indicate that I have misrepresented facts during  
12 the opening.

13 THE COURT: The Court already dealt with it.

14 MS. SCHWENDENER: And --

15 THE COURT: The Court understands opening statement  
16 is a statement. And I've said it multiple times to the jury,  
17 and I can even -- I will make sure it's part of my instructions  
18 at the end.

19 MR. DAVIS: Absolutely.

20 THE COURT: You know, that what the lawyers say is  
21 not evidence. I have said that. And, you know, you could have  
22 objected a little earlier actually, and then it would have  
23 stopped sooner. The Court would have intervened, but the Court  
24 believes I ruled on your objection. I made the statement to  
25 the jury about your comments not being evidence, and we move

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1 on. All right.

2 MS. SCHWENDENER: Thanks, Judge. And then for the  
3 record for -- with regards to the tapes, counsel and I did  
4 speak at the pretrial last week. I did ask counsel to send me  
5 the list of tapes because they were just identified as tapes 1,  
6 2, 3, and, and one was dated. I did not receive anything from  
7 counsel. We did confirm, and it was sent to an old e-mail  
8 address and not my current e-mail address, so I did not receive  
9 anything until just a few minutes ago with regards to the tape.

10 THE COURT: All right.

11 MS. SCHWENDENER: So I don't want the --

12 THE COURT: Well, I don't want there to be fault  
13 assessed to either side. You evidently took a leave or left  
14 where you were. He didn't have the proper e-mail. I don't  
15 know if it was properly forwarded or put on the docket or  
16 whatever. That's a no harm, no foul on either side as to  
17 anybody being at fault for that. These are tapes that I'm  
18 assuming your client gave --

19 MS. SCHWENDENER: Correct.

20 THE COURT: -- to them.

21 MR. DAVIS: Yes.

22 THE COURT: So they are tapes you have.

23 MS. SCHWENDENER: Correct.

24 THE COURT: So as to what he's going to use. Again,  
25 as we go from here on, I don't think any tape's going to be

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1 used at least for the next bit of testimony, is that correct?

2 MR. DAVIS: No. No, Judge.

3 THE COURT: All right. So he's going to go through  
4 it. And then if you want to discuss during the lunch break if  
5 it's going to be used or how you will use it, that's fine. But  
6 when I come out and say -- or if when they go I say, is there  
7 anything that we need to discuss, that's anything. So if you  
8 think that there's going to be an issue with something, that's  
9 the time to discuss it with me. Like I said, it can be  
10 anything as mundane as we don't have water in our carafe, to  
11 there's going to be prejudicial evidence and we want to front  
12 it. All right. Or we want to make sure there's no problem.  
13 That's fine too.

14 And if everybody says, oh, no problem, that I love.  
15 It's kumbaya. That's fine. If it's not and you say, Judge,  
16 you still haven't ruled on that or, Judge, we got the  
17 impression it's all okay and the defense says, well, no, it  
18 isn't, then it's on. We do it before the jury comes out or  
19 during the break. All right. That would be my preference, but  
20 there's some things that can't go on in front of the jury like  
21 speaking objections, taking digs at each other. That I will  
22 take a sidebar for every time. And then if it continues, I  
23 will actually make my comments from the bench without a  
24 sidebar. Everybody understand me? Plaintiff?

25 MR. DAVIS: Yes, Judge.

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1 THE COURT: Defense.

2 MS. SCHWENDENER: Yes, Judge.

3 THE COURT: All right. Thank you.

4 MR. DAVIS: Thank you, Your Honor.

5 THE COURT: Anything else before the jury comes back  
6 out?

7 MR. DAVIS: That's it, Judge.

8 THE COURT: Let's get your client in. Have her on  
9 the stand.

10 MR. DAVIS: Thank you.

11 (Before the jury:)

12 THE COURT: All right. Thank you for allowing us  
13 that break. We're going to go till lunch. And proceed with  
14 your questions.

15 MR. DAVIS: Thank you, Your Honor.

16 BY MR. DAVIS:

17 Q So before we had an intermission, Dr. Adams, we were  
18 talking about Tyrone Rogers' view of the audit both before he  
19 received the RFP on July 9th and after. And how would you  
20 characterize his view of the audit before at the retreat and  
21 after July 9th?

22 MS. SCHWENDENER: Objection.

23 THE COURT: Form of the question sustained.

24 BY MR. DAVIS:

25 Q At the June 22nd meeting what did Tyrone Rogers say with

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1 regard to the audit?

2 A At the meeting that we had regarding the audit, prior  
3 to -- once -- prior to there was -- every board member was in  
4 agreement with me completing an RFP, a proposal for the audit,  
5 including Tyrone Rogers. He thought it was a good idea. He  
6 actually said, you know, I -- he commended me for looking out  
7 for the finances of the district or something to that effect is  
8 what he said at that time.

9 THE COURT: All right. Question.

10 BY MR. DAVIS:

11 Q And did his view change after you released the proposal on  
12 July 9th?

13 A Yes --

14 MS. SCHWENDENER: Objection.

15 THE COURT: Basis? Basis?

16 THE WITNESS: Speculation.

17 THE COURT: Did his view change. Form of the  
18 question sustained. Just what did he do on the next date.

19 BY MR. DAVIS:

20 Q What happened -- what did he say after he received the  
21 proposal on July 9th, in particular at the July 22nd board  
22 meeting?

23 A At the board meeting his view changed from I commend you  
24 for doing that to who do you think you are? We are the board.  
25 We're not going to be investigated. We don't work for you.

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1 You work for us. That's -- those are some of the quotes that I  
2 remember him saying at that meeting.

3 Q Thank you. What else happened at that meeting on  
4 July 22nd? This is the special meeting Janet Rogers called.  
5 What else happened of note at that meeting?

6 A During that special meeting there was discussion on the  
7 items that had been presented on the agenda. The board -- the  
8 board members asked questions about an Echo billing statement  
9 that had been done. There was a list of maybe four or five  
10 things that were discussed at that July 22nd meeting. And it  
11 was in the form of a discussion. One was with summer work  
12 hours. One was, as I said, the Echo bill. One was something  
13 related to contracts -- signing of contracts, instructional  
14 contracts. And then there was another item that dealt with --  
15 I can't remember the fourth item, but, but it was a list of  
16 things that were on the agenda.

17 THE COURT: Excuse me. There's no drinks in the  
18 courtroom.

19 BY MR. DAVIS:

20 Q And so were these just talking points, or were these  
21 things they said you did wrong? What was the nature of the --

22 A These were items that had been placed on the agenda  
23 because they were -- I was being asked about these things.  
24 What happened with these things and if I, in fact -- these were  
25 the performance things that Mrs. Rogers brought up in terms of

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1 me having to discuss what they were or where we were with those  
2 items.

3 Q Right. And before July 22nd had any of these items been  
4 brought up?

5 A In a meeting, no. These were the items that Mrs. Rogers  
6 shared with me on that July 10th.

7 Q Well, even outside of a meeting, had you ever had any  
8 disciplinary report or any communication from the board saying  
9 we're concerned about these things before July 10th?

10 A No. No.

11 Q So these are all things that came up after July 10th?

12 A Correct.

13 Q Okay. And so what happened next at the meeting,  
14 July 22nd?

15 A So July 22nd that meeting we went into executive session  
16 and had discussions about each of the items that were listed on  
17 that agenda. The board -- after we went through those items,  
18 then President Gloria Johnson said that we would -- that there  
19 was no action -- I don't remember the exact words that she  
20 used. But then she did mention something about my contract or  
21 thinking about the contract extension that was granted. She  
22 shared a statement about that before we left executive session  
23 on that day.

24 Q And the nature of the statement, if you recall?

25 A The nature that I recall from the statement was that they

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1 were looking into it because there was something wrong with the  
2 execution of that contract, or that extension.

3 Q And again, you had never heard that before July 10th?

4 A That's correct.

5 Q And the extension was granted again when?

6 A The extension was voted on by all board members in  
7 February of that year, so February of 2015.

8 MR. DAVIS: How are we for time, Judge? I've got  
9 another 10, 15 minutes.

10 THE COURT: Oh, you're fine.

11 MR. DAVIS: Okay. Great.

12 BY MR. DAVIS:

13 Q So fast forward to August 17th, 2015, Dr. Adams. What  
14 happened on August 17th?

15 A August 17th, 2015 was a regularly scheduled board meeting,  
16 and we proceeded through the business of the board in open  
17 session. We went into executive session on August 17th, and we  
18 had discussions again around several items. One being the Echo  
19 billing, one being the summer work hours. I believe one being  
20 the contracts I do believe. And so in executive session the  
21 board -- representatives from the board just talked about these  
22 items that we had and what was going -- and what was the status  
23 of each one. Because I was to bring back information about the  
24 Echo billing at that August 17th meeting. And so I shared the  
25 information that had been put together regarding that billing



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1 and how we were going to proceed forward at that meeting. And  
2 then --

3 Q Let me stop you there.

4 A Okay.

5 Q I want to show you something.

6 A Okay.

7 Q I want to show you Plaintiff's Exhibit 22. Can you see  
8 it?

9 A I can, yes.

10 MR. DAVIS: And I'd like to publish this, Your Honor.

11 THE COURT: Any objection?

12 MS. SCHWENDENER: No objection.

13 THE COURT: All right. It will be published.

14 BY MR. DAVIS:

15 Q What is this, Dr. Adams?

16 A This was a partial performance evaluation and directives.  
17 This is what I was handed after the August 17th -- or at the  
18 end of the August 17th executive session or board meeting that  
19 evening.

20 Q So just so I'm clear, did you get these before the  
21 meeting? Did you get this document before the meeting?

22 A No. This was handed to me after the meeting.

23 Q Okay. And these performance directives, it says they were  
24 dissatisfied with your performance. And let's look at these.

25 You keep -- you mentioned several times the Echo

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1 billing issue. This is the issue that Janet Rogers first put  
2 on her request for the special meeting, right?

3 A That is correct.

4 Q On July 10th?

5 A On July 10th, correct.

6 Q So tell me what this is briefly. What is Echo, and what's  
7 this about? What did they say you did wrong here?

8 A So Echo is a cooperative where we send all of our special  
9 education -- not all of them, I'm sorry. Selected special  
10 education students for intensive support. So we're not able --  
11 we were not able to service them in the district, and so Echo  
12 provides that intensive support that the students would need.

13 For example, if we have some physically handicapped  
14 students and we're not able to accommodate them in our  
15 district, then we have an agreement with Echo who will take  
16 those students and provide a free and appropriate education to  
17 them. And then we pay them as a district. The district then  
18 pays them tuition for those students to attend. So we had  
19 several of our students from 152 that were serviced at Echo.  
20 And Echo provides us with a bill every -- usually every month  
21 or every quarter. I can't remember how they billed. And then  
22 it's our responsibility -- it was our responsibility as a  
23 district to pay those bills.

24 So during the course of an audit for Echo, there are  
25 several other districts that utilize Echo as well. So you have

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1 these, these high needs students that are in this cooperative  
2 and they're getting this intensive support. And then the  
3 cooperative bills out all of the districts in which they are  
4 providing the service to the students. So in the course of  
5 Echo completing an audit of their financial records, they  
6 discovered that they had been under billing and/or overbilling  
7 all of the districts that were a part of the cooperative. So  
8 Echo was in the process of confirming or, or identifying the  
9 specific amounts, and it varied from each district because some  
10 districts paid too much. Some districts didn't pay enough.

11 THE COURT: All right.

12 THE WITNESS: I'm sorry.

13 THE COURT: A question.

14 BY MR. DAVIS:

15 Q So Echo came back in January of 2015 and said, oh, we just  
16 discovered our billing's all screwed up, and we may have under  
17 billed you?

18 A Correct.

19 Q So did they immediately send out a bill in January? What  
20 did they do next?

21 A No, they did not send out a bill. We met monthly as the  
22 cooperative for Echo. And each month they would provide us  
23 with an update on how close they were to confirming that these  
24 numbers were accurate --

25 Q So they --

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1 A -- based on their auditing practices.

2 Q I'm sorry. They needed to go and confirm -- get their  
3 arms around how much was owed by whom?

4 A Correct.

5 Q Okay. And that was in January of 2015?

6 A Correct.

7 Q And how long did it take Echo to decide how much you all  
8 owed, and how much did you owe?

9 A It took a few months. I do believe that in May they  
10 finally had it figured out as to how many -- how much was owed  
11 by each district and if you were over or under. For Harvey 152  
12 the amount was \$175,000 that was owed, and that was based on  
13 Echo under billing 152 during that time period.

14 Q So when did they send you all the final audited statement  
15 saying you owe us \$175,000?

16 A That statement, we, we started having conversations around  
17 it around June or so. And in June once I received the billing  
18 from Echo, my, my concern was that it was \$175,000 that took  
19 them this amount of time to figure out if we owed the money or  
20 not. And then once we did, I felt it was my responsibility to  
21 confirm that this amount was accurate and that their billing  
22 was accurate.

23 So when I received the final information on what we  
24 owed, I wanted to investigate according to our records to  
25 confirm that it was accurate. So I asked or I directed our

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1 Director of Special Services to investigate this and confirm  
2 that this billing was actually done correctly because she had  
3 been in place for a number of years.

4 Q So you didn't just get a \$175,000 bill in June and write a  
5 check?

6 A I wasn't comfortable doing that, Mr. Davis, because I  
7 was -- I wasn't comfortable for the -- because of the amount of  
8 time it took them to confirm that we actually owed the money, I  
9 wanted to make sure that they were accurate in their records.  
10 So I needed to do my own investigation in the district to make  
11 sure our records actually confirmed that before sharing that  
12 information with the board.

13 Q Did you -- okay. You just answered my next question. So  
14 you wanted to verify everything before you brought this  
15 information to the board?

16 A That was my plan.

17 Q So you asked your subordinate to investigate it?

18 A Correct.

19 Q And did she do that?

20 A She did, yes. She --

21 Q Go ahead.

22 A She investigated the --

23 THE COURT: I'm sorry. Who is she?

24 THE WITNESS: I'm sorry. Her name is Dr. Sofia  
25 Jones-Redmond. She was the Director of Special Services at

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1 that time.

2 THE COURT: All right. Question, please.

3 BY MR. DAVIS:

4 Q And so she -- Dr. Jones-Redmond came back and told you,  
5 yeah, this looks okay. And what did you do at that point?

6 A At that point I then talked with our then assistant  
7 superintendent of Business Services. His name was Kevin  
8 Nohelty. I spoke with him, and the three of us -- well, the  
9 three of us together, I told them that I wanted them to come up  
10 with a plan on how we were going to pay back the funds. So  
11 part of Echo's agreement was that we as a district could  
12 present a payment plan to them that was acceptable to them to  
13 pay back the \$175,000, because they understood that districts  
14 don't have that kind of money just laying around in the  
15 district at the end of a fiscal year, and so --

16 THE COURT: All right. We're going to stop there.

17 BY MR. DAVIS:

18 Q I want to show you an exhibit, Dr. Adams. This is  
19 Plaintiff's Exhibit No. 24.

20 MR. DAVIS: I'd like to publish, Your Honor.

21 THE COURT: Any objection?

22 MS. SCHWENDENER: Yes, Your Honor. I object.

23 THE COURT: You do object?

24 MS. SCHWENDENER: Yes, Your Honor.

25 THE COURT: Before I hear the basis, do you have

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1 another exhibit you can go to so we don't have to stop? We're  
2 on a bit of a roll for us.

3 MR. DAVIS: Okay. I was going to go next to Exhibit  
4 25, Judge.

5 THE COURT: All right. And what exhibit number was  
6 the one that I just asked you to pass?

7 MR. DAVIS: 24.

8 THE COURT: All right. And so we're going to go to  
9 25. Any objection to 25?

10 MS. SCHWENDENER: No.

11 THE COURT: All right. There being no objection, I  
12 will publish it. And I'm going to ask the witness, please try  
13 to answer the questions yes or no or very short instead of  
14 getting the whole context. All right.

15 THE WITNESS: Yes, ma'am.

16 THE COURT: Thank you. All right. Proceed when  
17 you're ready, Counsel.

18 BY MR. DAVIS:

19 Q What is Exhibit No. 25, Dr. Adams?

20 A Oh, that is the -- that is the actual request to the  
21 assistant superintendent asking him to -- I'm sorry, making  
22 sure that the Echo would -- the extension we proposed -- I'm  
23 sorry. The payment plan we proposed to Echo, making sure that  
24 it was approved by them. Making sure it was together,  
25 presented to the board, and then we were going to submit it to

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1 Echo.

2 MR. DAVIS: Okay. So I'll skip -- I'll withdraw 24  
3 for now. Dr. Jones-Redmond will be in, and we'll revisit that.

4 THE COURT: All right.

5 BY MR. DAVIS:

6 Q So you got the bill in June. You verified. You asked  
7 your subordinate to verify it. They did it. You then asked  
8 them to work out a payment plan?

9 What was the -- let's go back to Exhibit No. 22, the  
10 Board's performance directives. What was their problem with  
11 the way the whole thing was handled?

12 MS. SCHWENDENER: Objection.

13 THE COURT: Basis? As to what the Board's problem  
14 was. Objection sustained --

15 BY MR. DAVIS:

16 Q Well, what did the Board say in --

17 MR. DAVIS: Can we publish Exhibit 22 again, Judge?

18 THE COURT: No problem. It's already been done.

19 BY MR. DAVIS:

20 Q What is this paragraph A?

21 A A talked about the Echo billing and just the situation  
22 that I described. And the board was not happy. They said that  
23 I failed to communicate to them in a timely manner about this  
24 billing.

25 Q Okay. Did you -- after you asked your subordinate to work



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1 out a payment plan, how did the Echo thing get resolved? Did  
2 it get resolved?

3 A Yes, it did. So the Echo was resolved by we entered into  
4 an agreement, a payment -- a repayment agreement over a  
5 three-year period, and we paid -- broke it up into three  
6 payments and paid over the three years. There was no  
7 additional penalty. No additional funds or money that was  
8 required from the board. So we paid it off.

9 Q Let me ask you this --

10 THE COURT: And once again we have to wait until each  
11 person --

12 MR. DAVIS: I'm sorry.

13 THE COURT: -- asks their question or answers so Miss  
14 McCullough will not have issues. Proceed, Counsel.

15 BY MR. DAVIS:

16 Q What you did working out a payment plan, is that basically  
17 what the other members of the co-op, the other districts did?

18 MS. SCHWENDENER: Objection.

19 THE COURT: Objection sustained to the form of the  
20 question and speculative.

21 BY MR. DAVIS:

22 Q To your knowledge, do you have any knowledge of what other  
23 members of the co-op did vis-a-vis -- were there other members  
24 of the co-op that had bills that they owed Echo?

25 A There were, yes. There were others.

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1 Q Do you have any --

2 THE COURT: All right. Stop there. Go ahead.

3 BY MR. DAVIS:

4 Q And do you have any knowledge of what they did in their  
5 situations?

6 MS. SCHWENDENER: Objection.

7 THE COURT: Objection, form of the question, they.  
8 It's vague and not specific. Proceed.

9 BY MR. DAVIS:

10 Q Can you tell me a specific board -- a specific co-op  
11 member that you're aware of that had a problem and how they  
12 resolved it.

13 A Yes. I can tell you that one other school district, 147  
14 worked out a payment plan also. That was School District 147.  
15 They also worked out a repayment plan.

16 Q And the bottom line, everything is the bottom line, did  
17 the district lose any money because of the Echo situation?

18 A No. No.

19 Q Okay. Moving on, Dr. Adams. What's item B?

20 A B --

21 Q On Exhibit 22.

22 A B is I failed to bring to the board for its consideration  
23 and approval a change in the district's summer work schedule  
24 until the board meeting on July 22nd after the change had  
25 already been implemented. That's what it says.

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1 Q So when did summer school start that year in 2015?

2 A So we had two sessions of summer school. They usually  
3 started early July, 1st of July and ran through about -- for  
4 six weeks or so, something like that.

5 Q Okay. I'd like to show you Plaintiff's Exhibit No. 27,  
6 and I'd like to publish.

7 THE COURT: Any objection?

8 MS. SCHWENDENER: No objection.

9 BY MR. DAVIS:

10 Q What is Plaintiff's Exhibit No. 27, Dr. Adams?

11 A That is a copy of a weekly newsletter that I sent to the  
12 board members usually on Fridays, every Friday.

13 Q And so when was this one sent?

14 A This one was sent June -- the week of June 15th through  
15 the 19th of 2015.

16 Q And is there anything in here as I scroll down that  
17 pertains to the summer school schedule?

18 A There is. So under enclosed for your review, I gave them  
19 copies of the proposed schedule change for summer work hours  
20 for that year.

21 Q Okay. And why were you -- were you changing the schedule  
22 that year?

23 A The schedule -- yes, I was changing the schedule for that  
24 year.

25 Q And briefly why did you want to change the summer school

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1 schedule?

2 A I wanted to change the summer work schedules for our  
3 central office employees because when we took -- when we had a  
4 parent survey back in June, we discussed it at the retreat, we  
5 talked about that some parents were not feeling and some  
6 students were not feeling safe in the schools. So we opted to  
7 have Fridays for summer school were field trip days. And on  
8 Fridays typically in the past our central office was closed, so  
9 employees would work Monday through Thursday but it would still  
10 be their 40 hours per week Monday through Thursday.

11 My thought or what I wanted to do was change it to  
12 Monday through Thursday regular work hours -- or I think they  
13 worked an extra hour or so, and then on Friday I needed a half  
14 day. My rationale for that was because the students were in  
15 field trips on that Friday. And I was not comfortable not  
16 having adults or administrators in the district while we had  
17 students out on field trips for the district during summer  
18 school. So I wanted to change the work hours so that we would  
19 be able to work until noon or so on Friday, but that would  
20 ensure that all of our students made it back safely from field  
21 trips that they partaked in during the summer, the summer  
22 enhancement program that we were offering.

23 Q And when you circulated this in June to the board members  
24 and you attached the schedule showing the changes, did you get  
25 any feedback, don't do that, why are you doing that?

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1 A I did not. I did have a conversation with our then Board  
2 President Mrs. Gloria Johnson even before sending this out  
3 about the changes that were being made and why, the rationale  
4 for why those changes were going to be -- or why I was  
5 proposing those changes. And at that time we both agreed that  
6 it was a day-to-day operations, and that we were fine. But she  
7 did want me to send it out to all of the board members, and so  
8 I did do that.

9 Q What do you mean by day-to-day operations? What does that  
10 mean briefly?

11 A So brief --

12 MS. SCHWENDENER: Objection.

13 THE COURT: I'm sorry? Objection?

14 MS. SCHWENDENER: Calls for speculation.

15 THE COURT: What does she mean by day-to-day  
16 operations?

17 MS. SCHWENDENER: I believe it was in response to  
18 what Gloria Johnson said.

19 THE COURT: All right. Objection's overruled.  
20 Proceed.

21 THE WITNESS: So day-to-day operations, when you're  
22 hired as the superintendent you are respons -- you're supposed  
23 to be responsible for day-to-day operations within a district.  
24 The board is supposed to be a governing board, and they're  
25 supposed to set policy, establish policy.

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1 THE COURT: Okay. Excuse me. You were asked about  
2 day-to-day operations, not about what about the board's --

3 THE WITNESS: Oh, okay. I'm sorry. So that's what  
4 day -- that's day-to-day.

5 BY MR. DAVIS:

6 Q Okay. So the idea is the superintendent is supposed to  
7 manage the business, and she doesn't call the board every time  
8 she wants to --

9 A Correct.

10 Q -- order a roll of toilet paper?

11 A Correct. Correct.

12 Q What have you.

13 MR. DAVIS: Okay. So let me go back to Exhibit 22,  
14 if I could, Judge. The performance directives. And again, I'd  
15 like to publish to the jury.

16 BY MR. DAVIS:

17 Q So we've now talked about Echo was one of the things,  
18 disciplinary items they brought against you. We've now talked  
19 about the summer school work schedule. And the last one -- or  
20 the next one, C on here says that you signed a contract without  
21 getting permission.

22 How do you -- what is your response to that?

23 A So this contract was an Imagine Learning contract, and it  
24 was actually an extension of an existing contract. Typically  
25 when we worked with vendors on instructional programs, I had

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1 been given the authority to continue those programs without any  
2 lapse in service. And so we typically -- I typically would  
3 sign them before the current contract would end and to make  
4 sure that the program was up and running for the start of the  
5 next school year without any lapse in service. So I continued  
6 to do so with an Imagine Learning program that we were using  
7 inside the district as well.

8 Q And was there an advantage to you signing the contract  
9 when you did for the district?

10 A There was an advantage to me signing. One of -- the  
11 biggest advantage was that it was a cost savings to the  
12 district if you would sign the contract in advance. And the  
13 district would save something like 15 or 10 percent. I don't  
14 remember the exact percentage, but there was a cost savings to  
15 the district for that.

16 Q Had you signed contracts like this -- you say you had had  
17 authority. You came in the district in 2013, right?

18 A Correct. Yes.

19 Q Had you signed other contracts like this between 2013 and  
20 2015?

21 A Yes, that's correct, I had.

22 Q Can you name some of those that you signed?

23 A One in particular that I recall is with -- there was a  
24 testing program that we used in the district. I believe it was  
25 called Discovery Ed, the program that we used. And we used it

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1 for multiple years. And so we would engage in that at the  
2 time.

3 Q And do you recall the amount?

4 A I don't. I'm sorry.

5 Q All right. So when you saw this, you told -- did you tell  
6 the Board, hey, I've already had this authority? I don't  
7 understand why now you -- how did you react? What did you say  
8 to the board?

9 A Well, yeah, I was -- I did, in fact, say that this is  
10 nothing new. Past practice, I've always been able to do this.  
11 So I did ask them if there was a change in what I was being  
12 asked to do because I was a little confused by this statement  
13 as well.

14 Q Okay. And finally, Dr. Adams, it says here you have not  
15 been in the district for a sufficient amount of time. Had you  
16 been out the district 83 days on August 17th --

17 A No.

18 Q -- 2015?

19 A No.

20 Q So what's your recollection on August 17th -- how many  
21 days of time outside the district had you taken when this  
22 statement was made?

23 A So without having the exact reports or, or documents in  
24 front of me, I know that in July I took vacation days in July.  
25 I do recall that. And those vaca -- I believe it was five



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1 vacation days. I know that I had taken a professional  
2 development day, and I believe there were some sick days that I  
3 had taken by August 17th as well.

4 Q Well, let me help you out. I want to look at exhibit --  
5 Plaintiff's Exhibit No. 28.

6 MR. DAVIS: And I'd like to publish this to the jury,  
7 Your Honor.

8 THE COURT: Any objection?

9 MS. SCHWENDENER: No objection.

10 THE COURT: Are you ready, Counsel?

11 MR. DAVIS: Yes, Judge.

12 BY MR. DAVIS:

13 Q So what is Exhibit 28, Dr. Adams?

14 A So this is an absentee report. We used this to track  
15 attendance every day in the district.

16 Q And so the school year starts from 7/1/2015 and goes  
17 through the, the next year is 7/1/2016. Is that --

18 A Well, June 30th of 2016, yes.

19 Q Okay. June 30th. So this is all of your absences during  
20 this period. So let's look at the period from 7/1 to 8/17 when  
21 this statement was made. And about how many days were you out  
22 then? You said you took some vacation?

23 A Yes, I --

24 Q How many vacation days?

25 A I took five vacation days, which were 7/27, 7/28, 7/29,

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1 7/30, and 7/31. So that was a week of vacation. I had a sick  
2 day on July 13th. And then on July 1st I had a professional  
3 development day. I had another sick day on August 10th.

4 Q Okay.

5 A And that goes through -- I mean, that -- that was the time  
6 I was off between July 1 and August 17th.

7 Q And were any of those unexcused absences where you just  
8 didn't go to work, or did you get permission before taking  
9 those absences?

10 A So vacation days have to be preapproved. And that week  
11 was preapproved by the board. The Board President in  
12 particular usually approve my vacation days.

13 Q That would have been Gloria Johnson?

14 A Correct. At that time, yes. And then the same for  
15 professional development days. Those were usually preapproved  
16 because they provided -- they were usually a day where you  
17 attended a conference or something like that. So that has to  
18 be preapproved as well. And then it looks like I had two sick  
19 days in addition to that.

20 Q Okay. So that's what they're referring to in item C on  
21 Exhibit 22. Now, let's look at the rest of this list while  
22 we've got it up. And beyond August 17th, 2015 and there's a  
23 long list of sick days here. What is that pertaining to, Dr.  
24 Adams?

25 A So there's -- there are quite a few sick days that I had

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1 taken, and I was under the care of a doctor, a therapist that I  
2 was seeing in regards to just some things that were going on in  
3 the district that were quite stressful. And I was under her  
4 care during those time periods.

5 Q So let me stop you there.

6 MR. DAVIS: If I may, Judge, I'd like to publish a  
7 letter we talked about.

8 THE COURT: Well, why don't you lay a foundation,  
9 Counsel, before you publish that.

10 BY MR. DAVIS:

11 Q Okay. What was the name of the doctor that you --

12 A Dr. Cunningham.

13 Q And what did you see her for?

14 A There were several -- it was very stressful.

15 THE COURT: First of all, what kind of doctor was  
16 she, ma'am?

17 THE WITNESS: Oh, okay. Thank you. She was a  
18 licensed therapist.

19 THE COURT: All right. Question.

20 BY MR. DAVIS:

21 Q Okay. And you saw her at a hospital or medical facility?

22 A I did.

23 MR. DAVIS: And I'm going to show you -- if I may,  
24 Judge.

25 THE COURT: Why don't you show counsel again, and

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1 then if there's an issue that we need to deal with.

2 MS. SCHWENDENER: Same objection, Your Honor.

3 THE COURT: All right. Step to the side real  
4 quickly, please.

5 (Sidebar proceedings out of the hearing of the jury:)

6 THE COURT: All right. So this is a letter  
7 addressed -- oh, it's to whom it may concern.

8 MR. DAVIS: This is what she gave her employer.

9 THE COURT: Okay. All right.

10 MR. DAVIS: This is from their record.

11 THE COURT: You're going to have to -- instead of  
12 saying I'm going to show you this, you show just her the letter  
13 and you don't publish it, and you ask her to identify it and  
14 explain some things about it. Okay. First of all, did she see  
15 this letter, how did she receive it. Even though it's not  
16 addressed to her, just ask her how she received it, and then  
17 what she did with the letter, find out about that. Then again,  
18 this is somebody saying she's under their care -- under her  
19 care, and it says the patient will require regular outpatient  
20 treatment. She can't testify to that. That's what the  
21 doctor -- that's substantive. That has to do with her medical.

22 MR. DAVIS: Sure.

23 THE COURT: She can say it says she's under her care.  
24 She can say that. And then ask for them to contact her if she  
25 has any other -- she can talk about those, but this is not

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1 going to be published to the jury. You can show it to her.

2 MR. DAVIS: Okay.

3 THE COURT: But that's it.

4 MR. PETRARCA: Thank you, Your Honor.

5 MS. SCHWENDENER: Thank you, Your Honor.

6 THE COURT: All right. You're welcome.

7 (Before the jury:)

8 THE COURT: All right. Thank you very much.

9 BY MR. DAVIS:

10 Q I'm going to hand --

11 THE COURT: You can hand it to her or you can show it  
12 to her on the screen. However you want to do it. That way you  
13 can both have it, or whatever you want to do, Counsel.

14 MR. DAVIS: It's fine.

15 THE COURT: Okay.

16 BY MR. DAVIS:

17 Q What is that, Dr. Adams?

18 A This is a copy of the medical note that I received from my  
19 doctor regarding care.

20 Q Let me ask you, who was the doctor?

21 A Dr. Theresa Cunningham.

22 Q And does it say what her office -- who she works for?

23 A Yes. She's from Dreyer Medical Clinic Psychology in Fox  
24 Valley.

25 Q And what's the date of the letter?

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1 A August 27th of 2015.

2 Q And have you seen this letter before?

3 A I have.

4 Q And how did you see this letter?

5 A Because I gave this letter to HR and to the board in  
6 Harvey 152.

7 Q Okay. And why did you do that?

8 A Because I wanted them to be aware of why I was being  
9 absent or away from the district.

10 Q Okay. Thank you.

11 A You're welcome.

12 Q So starting on August 27, 2015 you were under -- being  
13 treated, seen by Dr. Cunningham?

14 MS. SCHWENDENER: Objection, Your Honor.

15 THE COURT: Starting on August ... objection --

16 MR. DAVIS: The letter is dated August 27th, 2015.

17 THE COURT: That's the top of the letter?

18 MR. DAVIS: Yes.

19 THE COURT: Overruled.

20 BY MR. DAVIS:

21 Q So if we go back to the exhibit that we had up and with  
22 the absentee report. Can you scroll -- I'm going to scroll  
23 down, Dr. Adams. And are these sick days absences where you  
24 were excused on these sick days?

25 A Those were periods of time when I did have to see Dr.

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1 Cunningham, yes.

2 Q Right. And so this goes all the way through from August  
3 2015. Do you know where it ends? Well, let me put it this  
4 way: How long were you seeing Dr. Cunningham?

5 A I saw her until September -- I believe it was September of  
6 2015.

7 Q Okay. And did you -- what were you going through in  
8 general that required you going to see the doctor this many  
9 times and being under her care?

10 THE COURT: And, ma'am, I caution you just to say it  
11 from your standpoint. Not from something that she told you.

12 THE WITNESS: Sure.

13 THE COURT: All right.

14 THE WITNESS: So it was very stressful. Sorry.

15 BY MR. DAVIS:

16 Q Take your time, Dr. Adams.

17 THE COURT: How about putting another question.

18 THE WITNESS: Okay. Thank you.

19 THE COURT: And making it a general question.

20 Proceed, Counsel.

21 BY MR. DAVIS:

22 Q So these things that you were seeing her about, were they  
23 work related, or were they related to your personal life? What  
24 were they related to?

25 A Well, they were work related, but they did affect my

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1 personal life.

2 Q Okay. And how were they work related? Without going into  
3 any detail, how were they work related?

4 A There were things that happened to me when I would go to  
5 work. I'm sorry.

6 Q No problem, Dr. Adams. You need a drink of water?

7 THE COURT: It's all there. She can get it if she  
8 wants it.

9 THE WITNESS: I'm okay.

10 THE COURT: If you wish to move to another area of  
11 questioning, you can.

12 THE WITNESS: I'm okay.

13 BY MR. DAVIS:

14 Q So at a certain point, Dr. Adams, did you ever go on a  
15 medical leave, take a medical leave?

16 A I did, yes.

17 Q When was that?

18 A That was in April -- I believe it was April of 2015 --  
19 2016. I'm sorry.

20 Q And were you -- did a doctor sign that?

21 A She did, yes. Dr. Cunningham signed the paperwork for  
22 that as well.

23 Q So I'm drawing your attention to Plaintiff's Exhibit  
24 No. 49.

25 THE COURT: Any objection?



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1 MS. SCHWENDENER: Yes.

2 THE COURT: There's an objection.

3 MS. SCHWENDENER: No, yes, Your Honor, there is an  
4 objection.

5 THE COURT: Correct, there is an objection.

6 MS. SCHWENDENER: I'm sorry. Yes. Thank you.

7 THE COURT: All right. Yes. Basis?

8 MS. SCHWENDENER: Hearsay and foundation.

9 THE COURT: All right. One second, please. I need  
10 you to keep it there for me, Counsel.

11 MR. DAVIS: Yes, I'm just blowing it up, Judge.

12 THE COURT: All right. Thank you. Counsel, I need  
13 you to scroll up, please.

14 MR. DAVIS: Scroll?

15 THE COURT: Scroll up. All right. Objection  
16 sustained.

17 BY MR. DAVIS:

18 Q So did you go on a medical leave in April of 2016, Dr.  
19 Adams?

20 A Yes. Yes.

21 Q And did you have a doctor fill out the form for you to do  
22 that?

23 A Yes.

24 Q And who was the doctor?

25 A Dr. Theresa Cunningham.

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1 Q Thank you. I may have asked this. Prior to July 10th,  
2 2015 how many -- how much vacation did you take that prior --  
3 the year before that? That would have been the what, 2013-14  
4 school year?

5 A Yes. During the 2013-2014 school year I want to say maybe  
6 10 days or so for the entire year. I'm not sure of the exact  
7 number.

8 Q And under your contract that we saw yesterday, how many  
9 days did you have vacation allotted to you every year?

10 A 25.

11 Q And could you also add to that personal days? How many of  
12 those did you have?

13 A Yes. There were three -- in addition to vacation, there  
14 were three personal business days and then there were -- I  
15 believe it was 12 sick days every year.

16 Q And do you have an idea of how many combined personal and  
17 vacation days you carried over? If you don't use it, you can  
18 carry it over to the next year, right?

19 A For sick days and -- yes, we were able to carry over those  
20 days from year to year. And I don't recall the exact number,  
21 but I -- I know that maybe around, around 20 or so. I don't  
22 know the exact number --

23 Q Is what you carried over you believe?

24 A -- that were carried over, correct. But I know there was  
25 some carry --

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1 Q Let me ask you this --

2 A I'm sorry.

3 Q I'm sorry. In your entire time in the district, prior to  
4 July 10th, 2015 did you ever use up all of your total amount of  
5 vacation and personal days?

6 A No.

7 Q The hearing -- they gave you the performance directives  
8 that we saw at Exhibit 22, and you already said that you didn't  
9 receive that before the hearing, right?

10 A Correct.

11 Q When did you receive it actually?

12 A The performance directives?

13 Q Yes.

14 A I received that document at the end or -- at the end of  
15 the board meeting on that evening of August 27th -- August  
16 17th. I'm sorry.

17 Q Okay. And did you tell the Board or say anything about --

18 MR. DAVIS: I want to republish Exhibit 22, Your  
19 Honor.

20 THE COURT: You don't have to republish it. Just  
21 show it whenever you want.

22 MR. DAVIS: Okay. I'll put it back on the screen.

23 THE COURT: All right. Proceed.

24 BY MR. DAVIS:

25 Q So you're called in the meeting. They bring all these

Adams - direct by Davis

1 things up, and they hand you these performance directives.

2 What was your response?

3 A Well, initially I --

4 Q Literally without going through each one, what you said,  
5 what was your general response?

6 A Well, of course, I was upset by them, and wanted an  
7 opportunity to, to give my side of what was happening or what  
8 happened in these cases. And, you know, just -- just very  
9 upset by this.

10 Q And did they give you a chance to present your side?

11 A We had conversations before I received this, and I  
12 approached the Attorney Izzo after and asked if I would have an  
13 opportunity to respond to these. And he said that I could  
14 write a rebuttal for my personnel file or something like that.

15 Q So you're in the hearing. You didn't get anything before  
16 the hearing. You get hit with these different things. You all  
17 talk about them. As you're leaving, they hand you this  
18 document, is that correct?

19 A That's correct.

20 Q And so once you get the document with the -- that's the  
21 first time you get the specific charges in hand, and that's  
22 when you asked Attorney Izzo, well, I'd like to respond to  
23 these; is that correct?

24 A That's correct, yes.

25 Q And he told you you could just put something in the file?

Adams - direct by Davis

1 A Correct. He told me I could put -- I could write a  
2 rebuttal for my personnel file.

3 Q So then what did the board do on August 17th? Did they  
4 have a vote that evening?

5 A Yes, there was a vote that evening. And the vote was to  
6 rescind the one-year extension that I had been granted.

7 Q And so the one-year extension was then revoked?

8 A Correct. Yes.

9 Q And did they tell you why they were revoking it?

10 A They said ineffective -- it was ineffective.

11 Q And did they explain what that meant?

12 A No.

13 MR. DAVIS: Okay. That's all I have for the witness  
14 at this time, Your Honor.

15 THE COURT: All right. Why don't you both step to  
16 the side really briefly.

17 (Sidebar proceedings out of the hearing of the jury:)

18 THE COURT: All right. I think it's better to take a  
19 lunch break here.

20 MS. SCHWENDENER: I agree.

21 THE COURT: And then we'll get started back. I'm  
22 going to give them 45 minutes and see if that will suffice.

23 MS. SCHWENDENER: Sure.

24 THE COURT: Just to make sure we can keep it going.  
25 Okay.

1 MS. SCHWENDENER: Okay.

2 MR. DAVIS: Thank you.

3 THE COURT: How many witnesses do you have this  
4 afternoon? At least one?

5 MR. DAVIS: I don't have any now because Wright has  
6 come and gone. I can take --

7 THE COURT: You weren't putting on any of the  
8 defendants in your case in chief?

9 MR. DAVIS: Yes. I can -- yeah, I can take one of  
10 them --

11 THE COURT: Well, you do have witnesses.

12 MR. DAVIS: -- this afternoon.

13 THE COURT: You do have witnesses.

14 MR. DAVIS: Yeah.

15 THE COURT: You've got a lot of them.

16 MR. DAVIS: Sure. Absolutely.

17 THE COURT: Okay. All right. Good.

18 (Before the jury:)

19 THE COURT: All right. Before we get to  
20 cross-examination, I think this is a good time to take the  
21 break. All right. And again, to keep us moving and try to --  
22 trying to accommodate some schedules for tomorrow's date, I'd  
23 like to do 45 minutes today for lunch. Is that fine with  
24 everyone? Does somebody absolutely positively need that full  
25 hour? All right. 45 minutes. So it's 12 -- it's 11:45.

1 Please be back at 12:30. Feel free to go wherever for lunch.  
2 Leave your pads inside, and then make sure that you don't  
3 discuss this matter.

4 If you're on the second floor and you see people,  
5 familiar faces that you see in here, don't engage them in  
6 conversation. They will understand. And they should not be  
7 talking to you. If they do, I would ask you to report that to  
8 my deputy. All right. All rise.

9 (Jury excused.)

10 THE COURT: All right. Again, you're being -- you're  
11 under oath. You are free to talk to your lawyer and have lunch  
12 within your family. If you do discuss this matter, know that  
13 it will be fair game for them to ask you about on  
14 cross-examination. All right. Step down.

15 (Witness excused.)

16 THE COURT: All right. And again, we'll step up.  
17 Anything else as she steps down? Anything else on the record?  
18 I believe, Counsel, you withdrew that Exhibit 24. So since you  
19 withdrew 24, we don't need to talk about it anymore, is that  
20 correct?

21 MR. DAVIS: Right.

22 THE COURT: All right. And let me see about any of  
23 my other --

24 MR. DAVIS: And I withdrew it because the witness is  
25 going to be here tomorrow.

1 THE COURT: All right. All right. Thank you.

2 MR. DAVIS: Actually on the 1st.

3 THE COURT: Okay. Thank you.

4 MR. DAVIS: The day after tomorrow.

5 THE COURT: Okay. Thank you. All right. Anything  
6 else on the record, Counsel?

7 MS. SCHWENDENER: Yes, Judge. Just briefly.

8 THE COURT: Everybody else can either be seated or  
9 leave. All right.

10 MS. SCHWENDENER: Just briefly, Judge. I know the  
11 issue of the due process claim is still unresolved. Counsel  
12 kind of I think briefly went into it. I didn't want to --

13 THE COURT: Well, I thought you all were going to  
14 bring it up this morning, but nobody did when we had time  
15 earlier. So I mean, if you all want to do it, we can either do  
16 it now or we can do it later. Is that coming up in your  
17 cross-examination?

18 MS. SCHWENDENER: It was, Judge. I can probably keep  
19 it limited to the, to the scope of the direct. I think counsel  
20 asked a couple questions about did she receive notice. I don't  
21 think I have to go much more beyond that.

22 THE COURT: Well, we can do -- we can also do this:  
23 You all talk briefly even if you don't agree. Let him know  
24 when you're going to bring -- where you're going to bring it up  
25 so he's not taken by surprise.



1 MS. SCHWENDENER: Sure.

2 THE COURT: And vice versa. Maybe you can work it  
3 out. If you can't, 10 minutes before they come out, I will  
4 address it. So if you can be back here at about 12:25, at  
5 12:25. And if we need to take 10, 15 minutes to deal with  
6 this, we will. All right.

7 MS. SCHWENDENER: Sure. Thank you, Judge.

8 THE COURT: All right. And once again, unless you  
9 are a party to the case, we have these sidebars or times off,  
10 you're welcome to be here, but it's not really necessary. It  
11 really doesn't concern the gallery. All right. Thank you.  
12 All right.

13 (Whereupon, said trial was recessed at 11:50 a.m., until  
14 12:25 p.m.)  
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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

DR. DENEAN ADAMS,

Plaintiff,

v.

BOARD OF EDUCATION HARVEY SCHOOL  
DISTRICT 152, GLORIA JOHNSON in her  
individual capacity, BETTY JOHNSON  
in her individual capacity,  
DR. KISHA McCASKILL in her  
individual capacity, JANET ROGERS  
in her individual capacity, TYRONE  
ROGERS in his individual capacity,  
LINDA HAWKINS in her individual  
capacity, FELICIA JOHNSON in her  
individual capacity,

Defendants.

No. 15 C 8144

October 30, 2018  
Chicago, Illinois  
12:35 p.m.

Trial

VOLUME 2  
TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE SHARON JOHNSON COLEMAN, and a  
jury

APPEARANCES:

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1 (The following proceedings were had in open court outside  
2 the presence of the jury:)

3 THE COURT: All right. Court's back in session, and  
4 what do we have to address, plaintiff?

5 MR. DAVIS: Judge, I was about to show counsel when  
6 you walked out. I have an exhibit that I didn't include in my  
7 exhibit list. I'm going to call it Exhibit 18-A, and it is a  
8 closed session minutes from the retreat that you heard so much  
9 about. They have a secretary on the board who takes minutes  
10 for closed sessions. She's one of the defendants, Betty  
11 Johnson. These are her redacted closed session minutes,  
12 because they were redacted for attorney/client privilege and  
13 other issues way back when in discovery.

14 And I may use this document. I don't want to talk  
15 about where or how right now, but I wanted to show it to her  
16 beforehand and see if she had any objection.

17 THE COURT: And, and why was it not -- and not only  
18 this one, is there anything else that you haven't shown them  
19 that we're going to be showing them that was in the packet?  
20 Even though these are your minutes. They're minutes -- this is  
21 from them, right?

22 MR. DAVIS: This is my exhibit.

23 THE COURT: I know. But I just want to know, this is  
24 the second exhibit today that you didn't show them.

25 MR. DAVIS: Right. There are no more today, Judge.

1 THE COURT: Okay. You can promise me today that  
2 today.

3 MR. DAVIS: I can't promise about tomorrow.

4 THE COURT: All right. Let's deal, let's deal with  
5 that. All right. So -- okay. And so, Counsel.

6 MS. SCHWENDENER: Judge, this is the second page of  
7 the exhibit. If counsel has the first page, I'm, I'm sure it's  
8 fine, but --

9 THE COURT: It's not readable?

10 MS. SCHWENDENER: -- it doesn't -- it doesn't have a  
11 date. And I, I don't know. There's no first page that  
12 indicates which meeting it's from.

13 MR. DAVIS: Well, the very first page is their  
14 letter. This is how they produced it. This is their cover  
15 letter from their law firm, and this is how they produced the  
16 document. And, you know, I'm just producing it the way it is.  
17 It is a redacted document, and it does --

18 THE COURT: All right. Why don't you hand it up  
19 to -- I mean, unless, Counsel, you disagree. If it was given  
20 to them by your office or the office that was working on this  
21 when you maybe weren't --

22 MS. SCHWENDENER: Sure.

23 THE COURT: -- there can't be any objection.

24 MS. SCHWENDENER: No, Judge, and I, I have a -- I  
25 think I actually have the, the full copy. I just wanted to

1 verify the date. I don't have a problem with, with counsel  
2 using this. It's just there's a lot of minutes in this case  
3 from different dates and time frames. So if I could at least  
4 take a minute to review it. Maybe --

5 MR. DAVIS: Sure.

6 THE COURT: Where's your partner? Is he coming this  
7 afternoon?

8 MS. SCHWENDENER: Yes. I'll go grab him, Judge.

9 THE COURT: Okay. Well, no, not yet. I'm just  
10 saying let's deal with whatever else we have out here.

11 MS. SCHWENDENER: I'm sure we can get this worked  
12 out.

13 MR. DAVIS: That's it for me, Judge.

14 THE COURT: All right. And I -- well, they're  
15 getting ready to do cross, so they can --

16 MR. DAVIS: Right.

17 THE COURT: Her partner can look at this while she's  
18 doing cross.

19 MR. DAVIS: Right.

20 MS. SCHWENDENER: That's fine.

21 THE COURT: All right. And then we'll address it  
22 when Dr. Adams gets off the stand. And we'll address it real  
23 quickly, but counsel is making me aware that this is coming,  
24 and it comes from you. So I've got that much. All right. So  
25 if there's any objections or a better copy, then, you know,

1 I'll see that during the next break.

2 Anything else from the plaintiff?

3 MR. DAVIS: That's it, Your Honor.

4 THE COURT: Defense, anything else?

5 MS. SCHWENDENER: I don't believe so, Judge. I know  
6 just the, the due process is still lingering out there so --

7 THE COURT: Okay. Then let's say it. Not just the  
8 due process. And, Counsel, I, I guess I keep looking over. I  
9 know you keep asking me to reconsider it, but again, tell the  
10 Court what you want done here with this three-year contract.

11 MR. DAVIS: Well, what I want done with the  
12 three-year contract, Judge, is --

13 THE COURT: That I haven't already ruled on?

14 MR. DAVIS: Well, you've already ruled that Count 3  
15 didn't qualify as a matter of law of public protected speech  
16 because it wasn't a matter of public concern. You said it was  
17 a employment discrimination lawsuit, run of the mill and not a  
18 matter of public concern. So you declined to -- you dismissed  
19 it on that basis, because you couldn't have a retaliation count  
20 based on that because the speech requirement was missing.

21 I accept the Court's ruling there. All I'm trying to  
22 do is make sure that A, the jury has a complete picture of what  
23 my client experienced. And B, that with that complete picture,  
24 they're able to if they find in her favor award damages that  
25 she's entitled to. And I believe those damages could, up to

1 the jury -- the jury's the one to draw the line and decide  
2 where damages begin and end or if they exist or not. And I'm  
3 simply saying that the jury should hear about the retaliatory  
4 actions that began August 17th and culminated in her being  
5 forced out of the district on a medical leave. And then the  
6 jury can decide whether to give damages based on what it heard  
7 as it sees fit. That's all I'm saying.

8 THE COURT: So you're not, you're not making any  
9 reference at all to the three-year contingency that wasn't --  
10 hadn't even come about yet? You're not --

11 MR. DAVIS: Well, what I was going to make reference  
12 to is that the sequence of events, Judge, is they gave her a  
13 notice to remedy in November. November 9th to be exact. And  
14 then on December 21st they told her because of the notice to  
15 remedy, we're not renewing your contract. The evidence will  
16 show --

17 THE COURT: Renewing the, the one-year contract.

18 MR. DAVIS: No, the three-year.

19 THE COURT: You're not talking about the extension?

20 MR. DAVIS: They said they won't renew her contract.

21 THE COURT: And what -- you know, you did give me  
22 lots of cases, but those cases were different and distinct. So  
23 the three years had already -- was part of the agreement. Like  
24 if it was tenure. I think one of the cases was tenure. If  
25 it's tenure, that's something that there is an expectation of.



1 It's almost a vested expectation, if you want to call it, which  
2 is different from the situation here where you had clearly the  
3 one-year extension, but any three-year after that was totally  
4 speculative.

5 MR. DAVIS: But not quite, Judge. The one case I  
6 gave you, the St. Louis case they found, in fact, that under  
7 Missouri law the teachers didn't have a right to an extended  
8 contract or no expectation. And that's why the due process  
9 claim failed there, but the retaliation claim didn't fail.  
10 Even though the law said they didn't have an expectation or a  
11 right to a renewal, the Court found that because they didn't  
12 renew their contract because of their speech, they had a valid  
13 retaliation claim and declined to grant summary judgment on  
14 that issue.

15 And so that is exactly on point on all fours with  
16 what we're dealing with here. We're not saying she was  
17 entitled to the three-year contract. That's --

18 THE COURT: Yes, you are.

19 MR. DAVIS: No, what I'm saying is she's entitled not  
20 have to them punish her by refusing to renew because of her  
21 speech.

22 THE COURT: But -- okay. So on the one hand you're  
23 saying she's not entitled to it, but then you're saying, well,  
24 but even though in general she's not entitled to it,  
25 specifically you want a finding that they didn't entitle her to

1 it because of something that was said --

2 MR. DAVIS: I want --

3 THE COURT: -- which is her --

4 MR. DAVIS: I'm sorry.

5 THE COURT: -- her filing a complaint. Right?

6 MR. DAVIS: I want the jury to be able to decide if  
7 this was part and parcel of the retaliation.

8 THE COURT: No.

9 MR. DAVIS: Take the Umbehr case, Judge --

10 THE COURT: But, but, Counsel -- Counsel, I'm going  
11 to stop you right there. The Court has ruled. This is now a  
12 motion --

13 MR. DAVIS: Okay.

14 THE COURT: -- to reconsider. But again, as I  
15 stated -- and I'm looking at my entry right now. As I stated,  
16 it's speculation. The nonrenewal of the three-year contract  
17 that hasn't come about yet, was going to come about after the  
18 one-year extension, it was out there in the atmosphere, but it  
19 had not come about yet. And even -- and so -- and even you  
20 said she wasn't entitled to the three-year. But you want the  
21 jury to determine if part of their reasoning for that was what  
22 was going on here. But she wasn't entitled to it anyway, so it  
23 really doesn't matter.

24 MR. DAVIS: The evidence, Judge, is that before they  
25 issued the notice to remedy, which was the basis for

1 nonrenewing her, they issued a letter when they told her we're  
2 nonrenewing, and they said these are the reasons we're not  
3 renewing your contract because of this notice to remedy. The  
4 evidence is on tape admissions from them. Before they even  
5 issued the notice to remedy, they said we already decided we're  
6 not renewing her contract.

7           So the evidence is -- and we also have Tyrone Rogers  
8 saying we wanted to get rid of her in August, but we had to go  
9 through and create a paper trail. And this was all part and  
10 parcel of the paper trail.

11           THE COURT: All right. Next argument. Do you have  
12 anything to say?

13           MS. SCHWENDENER: In response, Judge, I mean, I know  
14 we've litigated this -- or argued this multiple times. Again,  
15 my arguments remain the same in response. The Court's already  
16 ruled on this in the motion for summary judgment. Also  
17 addressed in the motion for reconsideration. Plaintiff --  
18 there is no testimony by any witness that plaintiff was offered  
19 a three-year extension and the board revoked it. The issue is  
20 that whether the one-year contract extension was rescinded  
21 because of Mr. Rogers' statements and the police report  
22 plaintiff filed.

23           Counsel is getting into again all of this other  
24 disciplinary action that plaintiff testified and which is  
25 consistent with what was in her pleading that that -- all this

1 other retaliatory acts were regarding her filing of the  
2 lawsuit.

3 THE COURT: I think one of the issues here is -- one  
4 of the problems is, is that, you know, first of all, this  
5 three-year extension or additional renewed contract, that was  
6 already set. I mean, the fact that she might get it, it was  
7 sort of speculation. That's one thing to the side. Nobody  
8 seems to disagree with that. What the problem is is that for  
9 whatever reason, among other things that went on, this board  
10 decided to sort of pile on and, and wolf up some extra problems  
11 that she had after the fact. But it doesn't matter when they  
12 could have done it anyway without any of this.

13 To say that they came back and then said, yeah, and  
14 another thing, whatever, I mean that's basically in the  
15 vernacular what I'm hearing that you're saying, is that  
16 correct? That they could have done it anyway. She didn't have  
17 a property right in that. It was speculative, and it really  
18 doesn't matter what they said?

19 MS. SCHWENDENER: Correct. Correct. They --  
20 whatever they did in response to nonrenewal -- there's been no  
21 testimony by anyone that, that there was even any discussions  
22 about extending her contract for an additional three-year term.  
23 The board voted in December to nonrenew her contract. The  
24 plaintiff testified in her -- and her pleading, her complaint  
25 indicates that that was in retaliation for her filing a

1 lawsuit, which has already been dismissed by the Court. So  
2 there's been no testimony by plaintiff, and it's not in her  
3 complaint, that the nonrenewing her contract was in retaliation  
4 for filing the police report. The only retaliatory act for the  
5 police report was rescinding the one-year offer that the board  
6 did offer to extend.

7 MR. DAVIS: The evidence --

8 THE COURT: The last brief argument from Mr. Davis.

9 MR. DAVIS: Yes, Judge. Thank you. The evidence is  
10 that the reason they didn't renew wasn't piling on, but was  
11 because they wanted to retaliate for her speech and making the  
12 police report. Before they even issued the notice to remedy --  
13 and counsel keeps saying there's no evidence, no evidence -- is  
14 their own testimony in a closed meeting where they say, well,  
15 we know we already ain't going to renew this contract. We're  
16 just going to --

17 THE COURT: Okay. Excuse me. What's wrong with that  
18 statement for the three-year one?

19 MR. DAVIS: Because under the established law going  
20 all the way back to *Umbehr*, the Supreme Court has said even if  
21 you don't have a right to something, the government cannot  
22 deprive you of it because they want to retaliate against you  
23 because of your speech. If that were the case --

24 THE COURT: If you don't have a right to --

25 MR. DAVIS: Exactly.

1 THE COURT: -- something that you -- they won't allow  
2 you to deprive -- if you don't have a right to it, what are you  
3 being derived of?

4 MR. DAVIS: The cases use examples lottery tickets,  
5 law licenses, any number of things. Driver's license. Nobody  
6 has a right under the Constitution to a driver's license. But  
7 if the government can say the only way you can get a driver's  
8 license is you must pledge an oath of loyalty to the Trump  
9 administration, that would be an unconstitutional condition.  
10 And so the cases say if you couldn't do that explicitly, we're  
11 not going to let you do it implicitly by retaliating against  
12 somebody who happens to be anti-Trump and a Clinton supporter  
13 and say, we know you're not entitled to a driver's license, but  
14 because of your speech and we don't like it, you don't get a  
15 driver's license.

16 And the Courts say at that point that's a First  
17 Amendment retaliation claim. And whether they had a property  
18 right in that issue -- in that item is immaterial. That's the  
19 language from Sindermann. That's not the issue. The issue is  
20 did the government take it away because of the speech? And  
21 here we've got clear evidence that the reason they took it away  
22 was because of her speech. No other reason.

23 THE COURT: All right.

24 MR. DAVIS: I'm sorry, Judge.

25 THE COURT: No. No. No. I'm just -- I'm trying to

1 get both of you out -- some of it you've said before. Some of  
2 it was new, or at least put in a different way. Counsel,  
3 anything further?

4 MS. SCHWENDENER: Judge, I, I -- if counsel's arguing  
5 that she had a property interest in the three-year contract,  
6 that's not accurate. There was no discussions. It was purely  
7 speculative, and --

8 THE COURT: No, that's not -- what he just argued  
9 was --

10 MR. DAVIS: That's not what I argued.

11 THE COURT: What he just argued was, you know, she  
12 didn't even have to have a property right. He's saying the  
13 fact that -- she doesn't have to have a property right and they  
14 could have just said, no, we're not renewing and left it there,  
15 and he wouldn't have a word to say about it. But he's saying  
16 because they decided and this continued jawing back and forth  
17 went on about how she shouldn't have opened her, quote,  
18 unquote, mouth to file some claim against them or something  
19 that's been going on here, that that's why they were going to  
20 let her go.

21 Even though it sounds like they said, well, we  
22 weren't going to renew you first, and then they said besides,  
23 and then it's yak, yak, yak.

24 MR. DAVIS: Well --

25 THE COURT: That's what you just said. That was your

1 argument. They weren't -- they already told her they weren't  
2 going to renew her anyway.

3 MR. DAVIS: No.

4 THE COURT: But then after that they went on to  
5 say --

6 MR. DAVIS: No. No.

7 THE COURT: And the reason why -- that's what you  
8 just said, Counsel.

9 MR. DAVIS: Well, maybe I'm not being clear, Judge.

10 THE COURT: Okay.

11 MR. DAVIS: And I appreciate you giving me the chance  
12 to clarify. They never told her they weren't going to renew.  
13 The typical routine is they tell a superintendent whether  
14 they're going to renew 60 days before expiration of the  
15 contract, which would have been in the spring of 2016.

16 THE COURT: For the one year?

17 MR. DAVIS: Not for the one year. For the whole  
18 contract.

19 THE COURT: For the next contract, the three years?

20 MR. DAVIS: Right, for the next contract. They have  
21 to within 60 days give notice whether they're going to renew.  
22 They only gave her the one-year out of an abundance of caution  
23 because they wanted to keep her and didn't want to have her  
24 looking for work in the last year. But generally they do this  
25 60 days out. So we're now in December of 2015, almost six



1 months or four, five months before they had to give her notice.  
2 We go back even further. The comments I'm telling you they  
3 made were in October of 2015, and they said we're going to  
4 paper trail her to death. That's one of the quotes from Kisha  
5 McCaskill. And we've already decided we're not going to renew  
6 her, but we're going to issue this notice to renewal anyway to  
7 paper trail her to death.

8           They issued the notice to renewal. And then on four  
9 weeks later they said because of the notice to renewal, we're  
10 not renewing your contract. So they had never told her we're  
11 not going to renew your contract. And the decision not to  
12 renew the contract was made purely on the basis of the speech  
13 in July. As Tyrone Rogers said, it was all a progression. We  
14 wanted to get rid of her in July. We couldn't fire her then,  
15 so we had to go through this process. We had to do first the  
16 directives. Then the notice to remedy. But it was a fait  
17 accompli.

18           THE COURT: Okay. Again, I'm having a hard time with  
19 the one-year. So you're saying, oh, the one-year was  
20 already -- I mean, obviously these directives, some of these  
21 statements are going toward the one-year extension, which they  
22 didn't want to do. And you're going saying, oh, no. No. It's  
23 beyond that.

24           MR. DAVIS: It was a series, Judge. Retaliation is  
25 often --

1 THE COURT: Well, but, but, Counsel, you have to be  
2 able to show that the three-year was already decided that she  
3 had a right to, to argue that you can't take this away from me.  
4 And I am not hearing that, and I want counsel to respond to my  
5 question.

6 MR. DAVIS: And that's the disconnect. Counsel has  
7 not cited any authority for the proposition --

8 THE COURT: Well, neither one of you have really  
9 cited --

10 MR. DAVIS: Well, I've cited Umbehr. I'm cited  
11 Sindermann.

12 THE COURT: You've cited, but the Court sees  
13 distinctions between the, the fact pattern that's included  
14 there. And I guess it's almost like there's none out there  
15 like this one.

16 MR. DAVIS: Well, in Umbehr it was a, a garbage  
17 hauling case. He had a contract with the city to haul garbage.  
18 And he got political and criticized the mayor, and the mayor  
19 said no more hauling garbage for you. And the city said, well,  
20 you're not entitled to haul our garbage. And so you don't have  
21 a property right in hauling our garbage, so you're out. The  
22 Supreme Court said it doesn't matter if he didn't have a right  
23 to --

24 THE COURT: My problem is, Counsel, there's an  
25 intervening job situation. That is, the one-year extension,

1 which sounds fine to me. You can argue that all you want. You  
2 can't say that the three-year is also part of that. That was  
3 my ruling, and that's my ruling now. Anything further?

4 MS. SCHWENDENER: No, Judge.

5 THE COURT: Okay. That's it. The three-year is not  
6 proper. You can't bring all that -- you can bring it in, but  
7 for the one-year. For the one-year.

8 MR. DAVIS: So --

9 THE COURT: That was what -- that's like the garbage  
10 contract being cut. She already thought she had the one-year.  
11 That was right there, and they decided, oh, we don't want her  
12 to have that either. Right?

13 MR. DAVIS: I differ -- I respectfully disagree,  
14 Judge.

15 THE COURT: Did they -- they gave her the one-year?

16 MR. DAVIS: They gave it and took it back.

17 THE COURT: And took it back. No more for you.

18 MR. DAVIS: And then after they took it back, they  
19 weren't done. They wanted her out before June 30th. So they  
20 set about all of this other stuff to get her out so she  
21 wouldn't even stay till June 30.

22 THE COURT: Gotcha.

23 MR. DAVIS: And in the process they engaged in this,  
24 quote, progression. And what you're doing is cutting --  
25 respectfully not allowing the jury to hear evidence simply

1 because counsel keeps waving the pleadings around. I remember  
2 somewhere in law school federal courts have liberal standards  
3 for pleadings. Pleadings are just for notice. And the idea  
4 that we're here arguing about the pleadings --

5 THE COURT: There's liberal --

6 MR. DAVIS: -- and not looking at the substance,  
7 Judge --

8 THE COURT: Okay. Excuse me, Counsel. There's  
9 liberal pleadings to get into court and to go forward, not --  
10 you don't do liberal pleadings five years down the road on a  
11 case, almost five years down the road and you're at trial, and  
12 all of a sudden you say, well, we can put in whatever we want  
13 because of liberal pleadings. Liberal pleadings go to initial  
14 motions to dismiss, for failure to state a claim where people  
15 can be fairly liberal. And even if we dismiss it, we dismiss  
16 it without prejudice. We are at trial. So right now my ruling  
17 is still the same. Right now.

18 MR. DAVIS: Well, can we at least, Judge, have  
19 counsel to make a complete record, as I imagine this is going  
20 to go up on appeal. To provide one case that says you must  
21 have a property right in order to bring a First Amendment  
22 retaliation claim on a contract nonrenewal. I don't know any  
23 case like that. And I'd like for them at least to provide some  
24 authority and give me an opportunity to respond to it.

25 THE COURT: Why don't you do this: After we get the

1 cross-exam and get through one full witness, then if you want  
2 to bring -- right now it's still without prejudice for the last  
3 time. You can make your brief arguments, and, Counsel, you  
4 cannot just rely on this Court. You do have to make your own  
5 argument.

6 MR. DAVIS: Exactly.

7 THE COURT: All right. I know the Court spelled it  
8 out. But, Counsel, also on a motion to reconsider if you don't  
9 cite anything new, I didn't even have to even begin to  
10 consider --

11 MR. DAVIS: You're very generous, Judge.

12 THE COURT: -- your motion to reconsider at any of  
13 these points because you're saying the same thing you've said.  
14 You're right, that's what the Appellate Court is for. I was on  
15 one once. They wouldn't have a job if judges didn't do things  
16 that lawyers thought should be appealed. So --

17 MR. DAVIS: Thank you, Judge.

18 THE COURT: -- that, that is fine with me. We'll see  
19 what happens. Right now my ruling stays the same.

20 MR. DAVIS: I understand.

21 THE COURT: All right. And so let's abide by it.

22 So --

23 MR. DAVIS: Thank you, Your Honor.

24 THE COURT: Okay. All right. So, Counsel, you just  
25 should be able to -- there's something that your partner is

1 supposed to be looking at while we put this on.

2 MS. SCHWENDENER: Yes.

3 THE COURT: All right. And, Miss Adams, can you  
4 take -- Dr. Adams, can you come up and take the stand. And,  
5 and let me just say right now. If for some reason I slip and I  
6 don't call you, Doctor, there's no disrespect at all.

7 THE WITNESS: Okay. That's fine.

8 THE COURT: My parents were both Ph.Ds. They just  
9 didn't use it unless they were at school, so all right.

10 THE WITNESS: That's fine.

11 THE COURT: Anything else while he's looking --  
12 counsel's going to be looking that over during this time, but  
13 the -- and if you know already --

14 MR. DAVIS: Well, counsel handed me a revised  
15 absentee report that extended beyond the one that I showed Dr.  
16 Adams earlier. And I don't have a problem with the revised  
17 report.

18 THE COURT: As opposed to the one you gave them?

19 MR. DAVIS: Yes.

20 THE COURT: Okay. Is that -- everybody's good on  
21 that? What's that, what's that exhibit number?

22 MS. SCHWENDENER: We haven't introduced any exhibits  
23 yet, Judge.

24 THE COURT: I just want to -- what have we been  
25 talking about? Give it a label.

Adams - cross by Schwendener

1 MS. SCHWENDENER: 1. We will do Defendants' Exhibit  
2 No. 1.

3 THE COURT: Defendants' Exhibit 1. All right. But  
4 plaintiff is going to use it.

5 MR. DAVIS: Yes.

6 THE COURT: All right. Thank you very much. And  
7 also for the -- I think it was one of the parties who came in.  
8 I'm sorry if you weren't present when the Court talked about  
9 its rules of no outside drinks. I wasn't trying to make  
10 anybody waste money, so -- but yes, other than me and my mug,  
11 nobody gets to bring in a drink. You get water. If you had a  
12 bottle of water, that would be okay. But coffee drinks, the  
13 jury can't have them out here and neither can anybody else in  
14 my courtroom.

15 All right. If there's nothing else.

16 (Before the jury:)

17 THE COURT: We left off so that we could begin the  
18 cross-examination of Dr. Adams:

19 MS. SCHWENDENER: May I begin.

20 THE COURT: Yes.

21 MS. SCHWENDENER: Thank you, Judge.

22 CROSS-EXAMINATION

23 BY MS. SCHWENDENER:

24 Q Good afternoon, ma'am.

25 A Good afternoon.

Adams - cross by Schwendener

1 Q Dr. Adams, we've already gone through this a couple times  
2 but you had a three-year contract with the district, correct?

3 A Yes.

4 Q And that was from July 1st of 2013 until June 30th of  
5 2016, correct?

6 A Yes.

7 Q And you agree with me that your contract could not be  
8 extended or rolled over unless certain student performance and  
9 academic achievement goals had been met, correct?

10 A It was laid out in the contract, correct.

11 Q Now, you signed your three-year contract with the board,  
12 correct?

13 A Correct.

14 Q And as part of your job as superintendent, you were  
15 responsible for the school district's fiscal and business  
16 management, correct?

17 A Correct.

18 Q Now, the board voted to extend your superintendent  
19 contract for one additional year, correct?

20 A Correct.

21 Q And that would have been in February of 2015, correct?

22 A That's correct.

23 Q And that extension was a continuation of your existing  
24 contract, correct?

25 A Correct.



Adams - cross by Schwendener

1 Q It is under the same terms and conditions, correct?

2 A Correct.

3 Q You never signed a one-year contract extension, correct?

4 A I was never presented a document, a paper document for  
5 that.

6 Q You never signed a one-year contract extension, correct?

7 A Correct. I was never given a paper copy of a one-year  
8 contract.

9 Q Now, after you were presented with a contract extension,  
10 you tried to alter the terms of the contract, correct?

11 MR. DAVIS: Objection, Your Honor.

12 THE COURT: Basis?

13 MR. DAVIS: Mischaracterizes the facts.

14 THE COURT: Objection's overruled. This is  
15 cross-examination. Proceed.

16 THE WITNESS: My intent was to actually create a new  
17 contract with different terms. I wanted to change some of the  
18 terms in the original contract.

19 BY MS. SCHWENDENER:

20 Q All right. And let's go through that.

21 MS. SCHWENDENER: May I approach, Your Honor.

22 THE COURT: Oh, yes.

23 MS. SCHWENDENER: This is Exhibit No. 9, the revised  
24 superintendent's contract.

25 THE COURT: All right.

Adams - cross by Schwendener

1 BY MS. SCHWENDENER:

2 Q If you look at page 1.

3 MS. SCHWENDENER: And, Your Honor, I'd like to  
4 publish this to the jury.

5 THE COURT: Any objection, or has this already been  
6 published?

7 MS. SCHWENDENER: I believe it actually has already  
8 been.

9 THE COURT: I believe it has, yes. Right now it's  
10 just with the witness. And you're ready for it to be published  
11 as it has been already?

12 MS. SCHWENDENER: Yes, Your Honor.

13 THE COURT: Any objection?

14 MR. DAVIS: No, Judge.

15 THE COURT: Thank you.

16 BY MS. SCHWENDENER:

17 Q If we look at -- it appears, Dr. Adams, that there are  
18 underlying changes in -- at least on the first page, correct?

19 A There are some underlying changes, yes.

20 Q And those underlying changes would have been changes that  
21 you or your attorney requested, correct?

22 A That is correct.

23 Q And if we look at page 2, there is paragraph 4. An  
24 underlying change for compensation, correct?

25 A That is correct.

Adams - cross by Schwendener

1 Q And isn't it true that you did request a greater  
2 compensation then your existing contract, correct?

3 A According to this document, I did. I requested \$185,000.

4 Q And if we look at page 5, paragraph 14. You also  
5 requested a higher automobile reimbursement, correct?

6 A Correct.

7 Q Now, the board never responded to your proposed changes,  
8 correct?

9 A These changes were never presented to the board to my  
10 knowledge. Not as a full board, no.

11 Q You never received a response -- you never received a  
12 response or -- strike that.

13 The board never agreed to these changes, correct?

14 A That's correct.

15 Q And you never signed a new contract with the board,  
16 correct?

17 A A new contract?

18 Q Correct.

19 A That's correct.

20 Q And you never signed a one-year extension agreement with  
21 the board, correct?

22 A I was never given a one-year extension document to sign  
23 for the board.

24 Q My question was you never signed a contract, correct?

25 Regardless of whether you were presented, you never signed

Adams - cross by Schwendener

1 anything, correct?

2 A That's correct.

3 MR. DAVIS: Objection, argumentative, Judge.

4 THE COURT: Objection's overruled at this point. It  
5 is cross-examination, but watch your tone, Counsel. Proceed.

6 BY MS. SCHWENDENER:

7 Q I'd like to show you what has been marked as Plaintiff's  
8 Exhibit 1, the superintendent's contract.

9 THE COURT: All right. Any objection?

10 MS. SCHWENDENER: May I approach.

11 MR. DAVIS: What is that? I have not seen that. Oh,  
12 yes. Is that our 1?

13 MS. SCHWENDENER: Your 1.

14 MR. DAVIS: Yes, that's fine.

15 THE COURT: All right. Proceed. And you'd like this  
16 published, Counsel?

17 MS. SCHWENDENER: Yes, please, Your Honor.

18 THE COURT: Proceed.

19 BY MS. SCHWENDENER:

20 Q Dr. Adams, if you could turn to page 7 of the contract,  
21 paragraph 20.4. Could you please read that.

22 A 20.4?

23 Q Yes, ma'am.

24 A This agreement contains all the terms agreed upon by the  
25 parties with respect to the subject matter of this agreement

Adams - cross by Schwendener

1 and supersedes all prior agreements, arrangements, and  
2 communications between the parties concerning such subject  
3 matter whether oral or written. Except as may otherwise be  
4 provided herein, no subsequent alteration, amendments, change,  
5 or addition to this contract shall be binding upon the parties  
6 unless reduced in writing and duly authorized and signed by  
7 each of the parties.

8 Q Thank you.

9 A You're welcome.

10 Q Earlier you testified that you did ask for an audit into  
11 the board's finances in the spring or summer 2015, correct?

12 A That was part of the proposal, yes.

13 Q And isn't it true that in response to -- in response to  
14 your request for an audit Tyrone Rogers commended you?

15 A Can you repeat that.

16 Q Sure. Isn't that true that in response to your request  
17 for an audit Tyrone Rogers commended you?

18 A In the initial request for me to do that, yes.

19 Q And in the initial request he was in favor of the audit,  
20 correct?

21 A In the initial request he was in favor, yes.

22 Q In fact, all board members were in favor of the audit?

23 A That is correct. The, the initial was always in favor --  
24 all were in favor. Excuse me.

25 Q Now, the board members voted and allowed you to prepare a

Adams - cross by Schwendener

1 request for a proposal for the audit, correct?

2 A That is correct.

3 Q The board members never told you that you couldn't prepare  
4 a request for, for the audit, true?

5 A That's true.

6 Q Mr. Rogers never threatened you at this board meeting  
7 after you initially suggested the audit, correct?

8 A Not prior to the RFP, no.

9 THE COURT: So the answer is correct?

10 THE WITNESS: That's correct, yes.

11 BY MS. SCHWENDENER:

12 Q Mr. Rogers -- your testimony earlier was that Mr. Rogers  
13 called you in the afternoon of July 9th, 2015, correct?

14 A That's correct.

15 Q And you were alone at the time?

16 A I was, that's correct.

17 Q And it's your testimony that Mr. Rogers said that you  
18 were -- I believe you said you were itching for an ass  
19 whipping?

20 A Ass whipping or ass kicking, one of those two. You're  
21 itching for an ass, I thought it was kicking but maybe it was  
22 whipping.

23 Q Mr. Rogers didn't say that he personally was going to whip  
24 you, did he?

25 A It was implied -- I took that to mean that was a threat to

Adams - cross by Schwendener

1 me from Mr. Rogers. That was my interpretation of what he said  
2 to me.

3 Q But he didn't say that he personally was going to cause  
4 you any harm, correct?

5 A I took his comment as a threat to me.

6 THE COURT: Can you answer her question, ma'am.

7 THE WITNESS: He did not say it, no.

8 BY MS. SCHWENDENER:

9 Q Mr. Rogers never threatened you in the past, correct?

10 A No. That's correct.

11 Q Now, you didn't tell any of the board members about Mr.  
12 Rogers' statement that same evening on July 9th, correct?

13 A I did not, that is correct.

14 Q You didn't go to the police that evening, correct?

15 A I did not, that's correct.

16 Q And the next day you testified that you spoke with  
17 Detective Wright about Mr. Rogers' statements?

18 A That is correct.

19 Q But you didn't actually contact the police about his  
20 statements, correct?

21 A That is correct.

22 Q You personally never reported the incident to the police,  
23 correct?

24 A I reported it to him when he -- when he came to my office.

25 Q Prior to him arriving at your office, you had not reported

Adams - cross by Schwendener

1 the incident to the police, correct?

2 A Correct.

3 Q So he just -- Detective Wright showed up at your office  
4 the next day?

5 A Correct.

6 Q And you told Detective Wright about the incident, correct?

7 A That's correct.

8 Q And you told -- on that date you told Detective Wright  
9 that you first wanted to speak with the school board president  
10 about the matter?

11 A That is correct.

12 Q You did not ask Detective Wright to file a complaint on,  
13 on July 10th, correct?

14 A Not at that time, that's correct.

15 Q And that's because you wanted to first speak with the  
16 board president, and that would have been Gloria Johnson?

17 A That is correct.

18 Q And you wanted some direction from Miss Johnson about how  
19 to handle the matter?

20 A I don't know -- it wasn't direction, no. I wanted to  
21 inform her of the situation. And together I thought we could  
22 work out a solution or something that made me feel a little  
23 more comfortable about what, what was said.

24 Q And that's because it was a school matter. You wanted to  
25 talk with the board president about a school related matter,



Adams - cross by Schwendener

1 correct?

2 A Because she was my direct supervisor, so she supervised  
3 me. She was my boss.

4 Q And it was a -- you would agree that it was a school  
5 matter, correct?

6 A I reported it to her because she was my boss, and she  
7 needed to know. And as I said, I wanted to work -- see if we  
8 could work it out.

9 Q My question, ma'am, would you agree that it was a school  
10 matter?

11 MR. DAVIS: Asked and answered, Judge, now three  
12 times.

13 THE COURT: She didn't answer it the last time, so  
14 let's see. Can you answer that question, ma'am.

15 THE WITNESS: Well, I'm not sure if it is -- if it  
16 was a school matter. I think it was -- if I would have  
17 received that information from anyone, my response probably  
18 would have been the same in terms of reaching out to the police  
19 and feeling threatened by that.

20 BY MS. SCHWENDENER:

21 Q And you did speak with board president Gloria Johnson  
22 about the matter, correct?

23 A I did, correct.

24 Q Isn't it true that Miss Johnson told you to pursue  
25 whatever avenue you needed if you felt threatened?

Adams - cross by Schwendener

1 A I believe she did say something to that effect, yes, she  
2 did.

3 Q And when you spoke with Detective Wright a couple days  
4 later on July 13th, you shared with Detective Wright that the  
5 board told you to pursue whatever avenue -- whatever avenue was  
6 needed, correct?

7 A Can you repeat that one more time.

8 Q Sure. When you spoke with Detective Wright on July 13th,  
9 you shared with him that the board told you to pursue whatever  
10 avenue was needed, correct?

11 MR. DAVIS: Objection, Judge. It's confusion.

12 THE COURT: Objection's overruled. It's cross --

13 MR. DAVIS: Can we -- do we need a sidebar?

14 THE COURT: No, we don't need a sidebar.

15 MR. DAVIS: Okay.

16 THE COURT: All right.

17 THE WITNESS: One more time, please.

18 MS. SCHWENDENER: Sure.

19 THE COURT: You know what, Miss McCullough, ask the  
20 question.

21 (Record read.)

22 THE COURT: Can you answer that?

23 THE WITNESS: I don't -- I can't answer that, because  
24 I don't recall if I told Detective Wright that.

25 THE COURT: All right. Then just say you don't

Adams - cross by Schwendener

1 recall.

2 THE WITNESS: I don't recall if I told him that.

3 THE COURT: All right.

4 THE WITNESS: I don't.

5 BY MS. SCHWENDENER:

6 Q You did not ask the board members to take disciplinary  
7 action against Mr. Rogers, correct?

8 A That is correct.

9 Q Now, your testimony was that you met with Janet Rogers on  
10 July 10th of 2015?

11 A Correct.

12 Q And you said that the purpose of the meeting was to  
13 discuss concerns she had with you?

14 A It wasn't a formal meeting. She came into my office. We  
15 didn't have it scheduled. It was not on the books. She came  
16 into my office to share with me that she was going to move  
17 forward with the special board meeting.

18 Q You don't have any information that Mrs. Rogers knew that  
19 you had spoken with the police prior to her encounter with you  
20 on the 10th, correct?

21 A I can't answer that. I don't know of anything that she  
22 had at that time.

23 Q You were -- you were obviously pre -- or were you present  
24 at the July 22nd board meeting?

25 A Yes.

Adams - cross by Schwendener

1 Q And you did ask Attorney Izzo to attend the board meeting  
2 that day, correct?

3 A I asked the attorney -- Attorney Izzo to attend when we --  
4 to address the forensic audit issue. Specifically No. 1, yes,  
5 I did.

6 Q And I presume you're aware that Attorney Izzo told the  
7 board members that your one-year contract extension was  
8 ineffective because you had not met your goals?

9 A That was not a discussion that I was privy to.

10 Q Fair to say you've heard, you've heard that statement so  
11 far?

12 A I've heard it recently. But I can't say that I heard it  
13 on the 22nd.

14 Q You don't have any evidence that Attorney Izzo did not  
15 give that advice, correct?

16 A I don't.

17 Q And the board did tell you on July 22nd of 2015 that the  
18 offer to rescind your contract was ineffective and would likely  
19 to be rescinded, correct?

20 A As I was leaving the room during executive session,  
21 President Gloria Johnson at that time did say that there was  
22 some conversation around the extension being ineffective, yes,  
23 she did. She did say that.

24 Q You attended the board meeting on August 17th, correct?

25 A That's correct.

Adams - cross by Schwendener

1 Q And during that meeting you were presented with a partial  
2 performance evaluation, correct?

3 A During executive -- after executive session of that  
4 meeting, yes.

5 Q And during that August 17th meeting, the board also took a  
6 formal vote to rescind the offer extending your contract for  
7 one year, is that correct?

8 A That is correct.

9 Q And you were told that the board was rescinding the offer  
10 because the extension was ineffective, correct?

11 A That is what was in the minutes, correct.

12 Q And that was because there was no finding that your goals  
13 had been met, correct?

14 A That I'm not sure. I'm not clear on that, that part of  
15 it.

16 Q Dr. Adams, earlier I believe you testified that your --  
17 that your goals were discussed during the June 2015 retreat?

18 A Yes.

19 Q And that was four months after the board had voted to  
20 extend your contract, correct?

21 A That is correct.

22 Q Isn't it true that the goals you were presented were  
23 actually district wide goals as opposed to personal goals for  
24 you?

25 A Superintendent's goals are typically district goals. They

Adams - cross by Schwendener

1 are usually one in the same.

2 Q There was no formal finding that your goals had been met  
3 for that year, correct?

4 A That's not true. According to the goals that, that I had,  
5 there were evidence of progress that was presented at that  
6 retreat or during that retreat. That was the purpose of the  
7 retreat, to go through those items and look at where we were in  
8 terms of meeting those goals.

9 Q Let me ask it this way: There was no agenda from that  
10 June meeting to show that the board made any findings that you  
11 had met your goals, correct?

12 A There was an agenda for that meeting, and on the agenda we  
13 did list -- I did list reporting out on the goals or the  
14 strategic plan, or somehow it was listed that that's what we  
15 would be covering. That was the purpose of the retreat was to  
16 go through that information.

17 Q There was no motion by the board that you had made a  
18 finding -- that they had made a finding on your goals, correct?

19 A At what point?

20 Q At, at the June 20th, 2015 board meeting.

21 A I don't recall, no.

22 Q There were no minutes from that June retreat to show that  
23 the board made any finding that you had met your goals,  
24 correct?

25 A I would disagree with that. I would say there were

Adams - cross by Schwendener

1 minutes that reflected the reports that were made on the  
2 progress for those goals that had been established.

3 Q I'm not asking for a report or discussion. My question  
4 was, was there -- you would agree -- or there were no minutes  
5 indicating that the board met a formal finding that you had --  
6 or a determination that you had met your goals at that June  
7 retreat, correct?

8 A So I believe in the minutes they would reflect the  
9 reporting out that was done on the goals. That's what I  
10 believe was documented from that meeting.

11 Q My question -- there was no formal resolution by the board  
12 that stated superintendent had met her goals, would you agree?

13 A There was no formal resolution. I would agree with that.

14 Q Getting back to the August 17th meeting where you were  
15 handed a performance directives. You asked for an opportunity  
16 to be heard on the directives, correct?

17 A That is correct.

18 Q And no one from the board told you that you could not  
19 respond to the performance directives, correct?

20 A I asked Attorney Izzo. He was representing the board, and  
21 I believe he's the one that handed me the partial performance.  
22 And that's why I asked him.

23 Q And I believe your testimony was that Attorney Izzo did  
24 say that you could submit a rebuttal or, or put something in  
25 writing?

Adams - cross by Schwendener

1 A Correct, for the personnel -- for my personnel file.

2 Q Sure. Now, it's your testimony that the board retaliated  
3 against you because you filed a police report in response to  
4 Mr. Rogers' alleged threats, correct?

5 A That is correct.

6 Q And you also claim that your contract extension was  
7 rescinded and received the performance deficiencies at that  
8 August 17, 2015 meeting as a result of the police report,  
9 correct?

10 A That is correct.

11 Q Let's start -- let's discuss the performance deficiencies.  
12 As a direct result of the performance -- of receiving the  
13 performance deficiencies in August of 2015, you did not receive  
14 a reduction in pay, correct?

15 A I did not, no.

16 Q As a direct result of receiving the performance  
17 deficiencies in August of 2015, you were not placed on any type  
18 of suspension after receiving those deficiencies, correct?

19 A Not on August 17th, no.

20 Q As a direct result of receiving the performance  
21 deficiencies in August 2015, you did not receive a loss of  
22 benefits at that time, correct?

23 A Not at that time, that is correct.

24 Q With regards to the, the contract extension for that one  
25 year, no board member told you that they were going to take



Adams - cross by Schwendener

1 adverse action against you because of Mr. Rogers' threat,  
2 correct?

3 A Can you repeat that one more time.

4 Q No board member told you that they were going to take any  
5 adverse action against you because of Mr. Rogers' threat?

6 A That's correct.

7 Q You did not overhear any conversation that the board  
8 members were going to take adverse action against you because  
9 of Mr. Rogers' threat?

10 A Did I hear any? No, I did not.

11 Q No one from the board told you that they were going to  
12 rescind your contract because you reported Mr. Rogers' comments  
13 to the police, correct?

14 A No, they wouldn't have -- they didn't say that to me.

15 Q Earlier you testified that you had stress from the  
16 district, correct?

17 A That is correct.

18 Q You would agree with me that any job can carry stress,  
19 fair to say?

20 A A certain level absolutely.

21 Q Fair to say you had stress prior to working at the  
22 district?

23 A Absolutely. There was some stress.

24 Q And you treated with Theresa Cunningham, correct?

25 A Correct.

Adams - cross by Schwendener

1 Q And isn't it true that Miss Cunningham is a licensed  
2 therapist?

3 A As far as I know, yes. She works through -- I received a  
4 referral to go to her after seeing my regular primary  
5 physician. So yes, she's affiliated with my medical clinic.  
6 So yes, she is.

7 Q A licensed therapist, correct?

8 A Yes.

9 Q Okay. She is not a medical doctor, correct?

10 A I, I don't think so. I think she's a licensed therapist,  
11 right.

12 Q And you never treated -- strike that.

13 You were never prescribed any medications for your  
14 stress, correct?

15 A That is correct. Actually, Counselor, she offered, but I  
16 refused. I -- no. So no, I was not prescribed.

17 Q In the 2015-16 school year isn't it true that you had 83  
18 absences?

19 A I -- I'm not sure of the number of days. I would have to  
20 look at the reports.

21 Q Do you have any reason to disagree that you were absent  
22 from school for 83 days in the 2015 to '16 school year?

23 A I would want to look at the report. I know there were  
24 multiple days. I was under the care of Dr. Cunningham. I saw  
25 her -- I saw her, excuse me, on a regular basis during that

Adams - cross by Schwendener

1 school year. And I also -- at the beginning of that year I  
2 know there were vacation days, and then there were also  
3 professional development days. And those days needed to be  
4 preapproved.

5 Q Sure.

6 A And so those were noted as well.

7 Q Thank you, ma'am. All right. Let's -- if I could show  
8 you what we have marked as Defendants' No. 1.

9 A Sure.

10 THE COURT: All right. Do you want her to review  
11 this now? Are you going to use it for questions?

12 MS. SCHWENDENER: Yes, please.

13 BY MR. DAVIS:

14 Q If you could please take a look at that.

15 A Sure.

16 Q Thank you.

17 THE COURT: Is this to refresh her recollection?  
18 What's the purpose of the document?

19 MS. SCHWENDENER: The purpose of the document is to  
20 refresh her recollection.

21 THE COURT: All right. So just look at it. Read it  
22 over, and let us know when you're done, ma'am.

23 THE WITNESS: Okay. Yes, ma'am.

24 THE COURT: All right. Then close it up.

25 BY MS. SCHWENDENER:

Adams - cross by Schwendener

1 Q Yes, please. If -- looking at the first page of, of the  
2 report. It appears that this is an absentee report from --

3 THE COURT: All right. Wait a minute, Counsel. You  
4 asked her to refresh her recollection. And --

5 MR. DAVIS: Right --

6 THE COURT: Excuse me, Counsel. Refresh her  
7 recollection. She did that. You can't switch off to another  
8 document. You've got to perfect that remembrance, if it were.

9 MS. SCHWENDENER: Sorry, Judge. It was the same  
10 document.

11 THE COURT: That's the same document?

12 MS. SCHWENDENER: Same document, Judge.

13 THE COURT: All right. All right. So then actually  
14 she shouldn't have refreshed her recollection with it if you're  
15 going to be showing it to her.

16 MS. SCHWENDENER: Sure.

17 THE COURT: All right. Proceed.

18 BY MS. SCHWENDENER:

19 Q Dr. Adams, you would agree that this report is from July  
20 1st of 2015 through June 30th of 2016, correct?

21 A Yes, that's correct.

22 Q And this report indicates that you had a total absences of  
23 83 days, is that correct?

24 A That is correct.

25 THE COURT: All right. Did you have that -- were you

Adams - cross by Schwendener

1 trying to publish that or no?

2 MS. SCHWENDENER: No, I don't need to publish it.

3 THE COURT: All right. Thank you.

4 BY MS. SCHWENDENER:

5 Q And you would agree that there are about 260 days of work  
6 in the 2015-16 school year, correct?

7 A That's correct.

8 Q So fair to say you missed about a third of the year that  
9 year, correct?

10 A I would go back to the breakdown of the days. There were  
11 several vacation --

12 THE COURT: Ma'am.

13 THE WITNESS: Oh.

14 THE COURT: It's only the question of she's asking  
15 you to do some number work. Answer that question if you can.  
16 Mr. Davis will have the opportunity --

17 THE WITNESS: Oh, okay.

18 THE COURT: -- to come back and ask you questions on  
19 redirect.

20 THE WITNESS: Yes, ma'am.

21 THE COURT: Proceed.

22 THE WITNESS: Can you repeat your question.

23 BY MS. SCHWENDENER:

24 Q You would agree that you missed about one-third of the  
25 school year that year, correct?

Davis - redirect by Davis

1 A 83 days it looks like. 83 days, yes, ma'am.

2 Q Fair to say you did receive the majority of your salary  
3 for that year, correct?

4 A The majority?

5 Q Yes, the majority.

6 A Yeah, the majority.

7 MS. SCHWENDENER: Thank you. Nothing further.

8 THE COURT: All right. Nothing further. Redirect  
9 based on the cross that was presented.

10 MR. DAVIS: Thank you, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. DAVIS:

13 Q Let's start with where we just left off, Dr. Adams, the  
14 report, the 83 days. Does this report include time that you  
15 were out of the district on medical leave, FMLA medical leave?

16 A Yes, it does.

17 Q So when did you go on FMLA medical leave?

18 A It was in April of 2016.

19 Q So any dates on there from April forward to June 30th, you  
20 would have been on leave? You weren't even in the district?

21 A Correct.

22 Q And prior to going on leave, isn't it true that most of  
23 the absences began on or about or after August of 2015?

24 A That is correct.

25 Q And were those absences, absences we talked about earlier

Davis - redirect by Davis

1 attributable to you being under a doctor's care related to the  
2 events you were experiencing at work?

3 A That is correct.

4 Q And prior to August 17th, we discussed earlier you only  
5 had like what, nine days absent?

6 A Something like that, yes.

7 Q Right.

8 A That's correct.

9 Q And those were all approved absences?

10 A The majority of them were, yes.

11 Q And all the absences in prior years, you had never had --  
12 even used your full amount of the vacation time, correct?

13 A That's correct.

14 Q Okay. And even the time that you were off that counsel  
15 just showed you in the report, you had excused absences or used  
16 vacation time, none of those -- that time off was improper?

17 A That is correct --

18 MS. SCHWENDENER: Objection.

19 THE COURT: Basis? Basis.

20 MS. SCHWENDENER: Leading.

21 THE COURT: Objection sustained. This is redirect.  
22 It's not cross.

23 BY MR. DAVIS:

24 Q Was any of that time time that you weren't authorized to  
25 take?

Davis - redirect by Davis

1 A No, it was not.

2 Q And did you go through all the procedures you were  
3 required to go through, providing your employer notice,  
4 et cetera, before you took those times -- that time off?

5 A Yes, I did.

6 Q Okay. Thank you. Counsel asked you as a result of the  
7 August 17th performance directives did you get suspended. Did  
8 you ever get any suspension --

9 MS. SCHWENDENER: Objection --

10 BY MR. DAVIS:

11 Q -- after August 17th?

12 THE COURT: Excuse me. There's an objection. After  
13 August 17th. All right. Let's step to the side.

14 (Side bar proceedings out of the hearing of the jury:)

15 THE COURT: All right. Remind me again, August 17th.

16 MS. SCHWENDENER: August 17th was when they issued  
17 the partial performance directives. Counsel's question is at  
18 any point did she get suspended. She did in December of 2015.  
19 My question was as a direct result of the performance  
20 directives in August of 2017 did you get suspended. So  
21 counsel's going into -- or I anticipate that counsel's going to  
22 ask her if at any point she got suspended, which was in  
23 December several months later.

24 THE COURT: Which was not part of --

25 MS. SCHWENDENER: Which was not part of -- correct.



Davis - redirect by Davis

1 MR. DAVIS: She opened the door, Judge, by asking --

2 THE COURT: How did she open the door?

3 MR. DAVIS: Because she asked her was she suspended.

4 And I think that the jury needs to hear the complete picture.

5 She's giving the misimpression that she never was suspended,

6 and the only discipline that she ever happened was on

7 August 17th.

8 THE COURT: So when we went back, and I can --

9 looking at my same time, on, on direct he asked the question

10 about her suspension at this same time, correct, or no?

11 MR. DAVIS: I didn't raise it then because I

12 couldn't.

13 THE COURT: Right.

14 MR. DAVIS: She opened the door.

15 THE COURT: So now you have raised it, and you want

16 to limit it to the exact date you were talking about, is that

17 correct?

18 MS. SCHWENDENER: I -- that's -- that was my question

19 was -- that yes, because -- and she said not at that time. So

20 the jury --

21 THE COURT: She said not at that time. So now the

22 jury has it in its mind that it may have happened some other

23 time. The problem is, Counsel, if she goes into she was

24 suspended some other time, you all are going to open the door

25 that you can't control, and the Court is going to be asking

Davis - redirect by Davis

1 them to disregard all kinds of information because it's going  
2 to go way too far afield.

3 MR. DAVIS: Well, I'm just going to ask did she have  
4 any suspension. I'm not going to go beyond that.

5 THE COURT: Right. And how does that help your  
6 client?

7 MR. DAVIS: Because it establishes that the  
8 discipline that she experienced was not limited to those  
9 performance directives. And it corrects the misimpression that  
10 that was the only thing that happened to her.

11 THE COURT: And, and why do you have a problem with  
12 this?

13 MS. SCHWENDENER: That's outside the scope of cross  
14 too.

15 MR. DAVIS: You're asking her?

16 THE COURT: Yes.

17 MR. DAVIS: I'm sorry.

18 MS. SCHWENDENER: My question was simply, you know,  
19 on this date did you receive a suspension as a result of this?  
20 And her question was no, not at that time. So now she can talk  
21 about a suspension she had several months later for an  
22 unrelated -- that didn't have anything to do with the  
23 performance directives.

24 THE COURT: I mean, the area has been on the  
25 performance directives. You have gone through the performance

Davis - redirect by Davis

1 directives, and she asked the question. And now you want to  
2 get back and then go beyond something that you haven't had  
3 testified to.

4 MR. DAVIS: I want to just establish and correct the  
5 impression that just because she didn't get suspended in that  
6 particular day, it didn't mean that she didn't ever experience  
7 a suspension. Because the impression that's being given to the  
8 jury, Judge, is that you didn't suffer any harm. Nothing  
9 happened to you. She can't open the door and --

10 THE COURT: Okay.

11 MR. DAVIS: -- limit it.

12 THE COURT: Okay. We don't need all the body  
13 language.

14 MR. DAVIS: I'm sorry.

15 THE COURT: They can read that. So again, what is  
16 your problem with this? Just -- how does this hurt your  
17 client?

18 MS. SCHWENDENER: Well, I guess if the question is  
19 specifically at any point did you get suspended, yes, and leave  
20 it at that.

21 THE COURT: As to opening the door and going into --

22 MS. SCHWENDENER: It's opening the door.

23 THE COURT: As to, as to opening the door and going  
24 down the road of what all these were, I'm not going to allow  
25 that.

Davis - redirect by Davis

1 MR. DAVIS: I'm not going to --

2 THE COURT: So it's one question?

3 MR. DAVIS: Yes.

4 THE COURT: Okay.

5 MS. SCHWENDENER: And for the record I still object.

6 THE COURT: You still object.

7 MS. SCHWENDENER: I still object.

8 THE COURT: So it's one question. I'll allow him to  
9 do it. All right.

10 MR. DAVIS: Thank you, Your Honor.

11 (Before the jury:)

12 THE COURT: All right. Excuse me, ladies and  
13 gentlemen. We'll proceed.

14 BY MR. DAVIS:

15 Q So again, Dr. Adams, counsel asked you -- well, counsel --  
16 yes, she asked the question were you suspended as a result of  
17 the performance directives on August 17th, 2015, and your  
18 answer was no, is that correct?

19 A That's correct.

20 Q My question is were you suspended at any other time after  
21 August 17th, 2015 by the District?

22 MS. SCHWENDENER: Objection for the record, Your  
23 Honor.

24 THE COURT: Objection for the record is made. Same  
25 ruling. Proceed.

Davis - redirect by Davis

1 THE WITNESS: I was --

2 BY MR. DAVIS:

3 Q No. No. It's simple --

4 THE COURT: It's a yes or no answer.

5 THE WITNESS: Yes. Yes.

6 MR. DAVIS: Okay. Thank you.

7 THE COURT: All right. Anything further on redirect,  
8 Counsel?

9 MR. DAVIS: Yes, Judge.

10 THE COURT: All right.

11 BY MR. DAVIS:

12 Q Counsel also said -- asked you did you receive any pay  
13 reduction as a result of the performance directive on  
14 August 17th, 2015, right?

15 A Correct.

16 Q In fact, by them rescinding -- by the Board rescinding the  
17 contract extension, did that not result in a loss to you  
18 financially?

19 MS. SCHWENDENER: Objection.

20 THE COURT: Objection's overruled. I'll let him ask.

21 THE WITNESS: Can you repeat that one more time.

22 BY MR. DAVIS:

23 Q How much financially did you lose when the board rescinded  
24 the contract extension that they had granted in February?

25 THE COURT: All right. Counsel, that's two different

Davis - redirect by Davis

1 questions.

2 MR. DAVIS: Okay.

3 THE COURT: Objection is sustained on how much. You  
4 asked if --

5 BY MR. DAVIS:

6 Q Did you have a financial loss as a result of the  
7 rescission of the contract extension?

8 A Yes, I did.

9 Q Do you know how much it was?

10 A A year's --

11 MS. SCHWENDENER: Objection.

12 THE COURT: All right. You know what, I'm going to  
13 go ahead and let her testify. Proceed.

14 THE WITNESS: That would be a year's salary at  
15 minimum is what I, I lost.

16 BY MR. DAVIS:

17 Q And how much was that? Refresh us.

18 A 165,000.

19 Q Thank you. Counsel asked you if you ever had stress in  
20 any previous job, and you said yes. Were you ever forced to  
21 go -- or did -- did you go seek medical help from a doctor  
22 related to stress in any previous job?

23 A No, I did not.

24 Q Did you ever go on a medical leave because of stress  
25 related to any job you ever previously held?

Davis - redirect by Davis

1 A No, I did not.

2 Q Counsel asked you did the board tell you could do whatever  
3 you needed to do after it was reported that Tyrone Rogers  
4 threatened you. You remember that?

5 A I remember, yes.

6 Q In fact, the only person you heard from or talked to was  
7 Gloria Johnson, is that what you testified to?

8 A That's correct.

9 Q But you never heard from or had any communication with the  
10 other board members?

11 A That is correct. Not regarding that situation, no.

12 Q So the person who told you do whatever you need to do, who  
13 was that?

14 A President Gloria Johnson.

15 Q Thank you. And counsel showed you the new contract and  
16 she went through various underlined things and had you look at  
17 those. But I want to be clear, was that to substitute, replace  
18 the existing contract or was that to modify the existing  
19 contract?

20 A The proposed contract was to replace. It was going to be  
21 a new contract.

22 Q Exactly. Okay. Counsel asked you did you sign the  
23 extension that they voted for on February 23, 2015, the  
24 one-year extension. Were you ever asked to sign before they  
25 voted? Did anybody say you got to sign this before we vote?

Davis - redirect by Davis

1 A No, I was not -- I was not asked.

2 Q Did anybody come to you after they voted and approved it  
3 and say, oh, we need you to sign this?

4 A No.

5 THE COURT: Meaning the one-year extension.

6 BY MR. DAVIS:

7 Q The-one year extension.

8 A No.

9 Q Counsel talked to you about the goals and said that the  
10 goals at the retreat were -- she asked you whether the goals at  
11 the retreat were the district goals or your goals. You  
12 remember that?

13 A I do.

14 Q And she also made a point that the board didn't formally  
15 vote at the retreat met all goals. Do you remember that?

16 A I do, yes.

17 Q You testified yesterday at length about the goal process.

18 A Correct.

19 Q Right?

20 A Correct.

21 Q And can you briefly -- that was like a year long process,  
22 right?

23 A Correct. Yes.

24 Q With many steps along the way to check the goals, tweak  
25 the goals, et cetera?



Davis - redirect by Davis

1 A Correct.

2 Q And you testified that that happened all the way up to  
3 June 2015, correct?

4 A That's correct.

5 Q So if there would have been any problems with you meeting  
6 the goals, there was many steps along the way when they would  
7 have told you that, right?

8 MS. SCHWENDENER: Objection.

9 THE COURT: That's speculative and the form.  
10 Sustained. Save it for argument.

11 BY MR. DAVIS:

12 Q What would have happened in -- you all had a retreat in  
13 December 2015 where you talked about the goals, right?

14 A That was -- that would have been December of 2014,  
15 correct.

16 Q I'm sorry.

17 A Yes.

18 Q 2014.

19 A Yes, that's correct.

20 Q Did anybody say there, hey, you're not meeting your goals?  
21 You got a problem?

22 A No. Any issues that we --

23 THE COURT: Counsel -- I'm sorry. Miss --

24 THE WITNESS: I'm sorry. No. I'm sorry. I'm sorry,  
25 Judge.

Davis - redirect by Davis

1 THE COURT: Dr. Adams.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Only yes. We'll never get through this.

4 THE WITNESS: Okay.

5 THE COURT: Yes.

6 BY MR. DAVIS:

7 Q And in January, again you all talked about the goals at  
8 another retreat, January 2015?

9 MS. SCHWENDENER: Objection.

10 THE COURT: Basis?

11 MS. SCHWENDENER: Leading.

12 THE COURT: Objection -- the form of the question is  
13 slightly leading. Sustained.

14 BY MR. DAVIS:

15 Q Did you ever have another retreat after December where you  
16 all talked about the goals after December 2014?

17 A We did, yes.

18 Q Did anybody at that retreat say, oh, you didn't meet the  
19 goals. We got a problem?

20 A No.

21 Q On your performance review that we looked at yesterday,  
22 did anybody say, oh, you're not meeting the goals. We've got a  
23 problem?

24 A No.

25 Q And finally in the previous years -- you came to the

Davis - redirect by Davis

1 district in 2013, right?

2 A Correct.

3 Q You had goals for 2014 -- 2013-14 year too, right?

4 A Correct, yes.

5 Q And they were on the same cycle, schedule?

6 A That is correct.

7 Q So at the retreat in June of that cycle, did anybody stand  
8 up and say you met the goals? Did anybody place a resolution  
9 and say you met the goals at the retreat?

10 A No, that was -- no, they did not.

11 Q So as far as you know that was never part of the  
12 district's process --

13 MS. SCHWENDENER: Objection.

14 THE COURT: Let him finish the question.

15 BY MR. DAVIS:

16 Q In your experience did the district ever have a process  
17 where they had to formally vote to say you met the goals?

18 A That was not my experience, no.

19 Q In fact, what they -- the whole process as you've  
20 described it now was to see if you weren't meeting the goals  
21 and whether they needed to be changed, right?

22 A That is correct.

23 MR. DAVIS: Thank you. I think that's it, Your  
24 Honor -- one last question.

25 BY MR. DAVIS:

Adams - recross by Schwendener

1 Q Counsel asked you about the July 22nd meeting. They never  
2 took a vote about rescinding the contract at that meeting,  
3 right?

4 A That is correct.

5 Q When was that vote taken?

6 A On August 17th.

7 MR. DAVIS: Thank you, Dr. Adams.

8 THE WITNESS: You're welcome.

9 THE COURT: Thank you very much, Mr. Davis. Any  
10 recross?

11 MS. SCHWENDENER: Brief, Your Honor.

12 THE COURT: All right.

13 RECROSS-EXAMINATION

14 BY MS. SCHWENDENER:

15 Q Dr. Adams, I believe you indicated that no one told you  
16 that you had to sign your contract extension?

17 A That's correct.

18 Q Okay. Isn't it true that you had a conversation with  
19 Janet Rogers about your contract extension? She told you to  
20 sign it, and you said in response that you would take your  
21 chances with the new board?

22 A I don't recall that. I recall having a conversation with  
23 Janet Rogers, but not about that.

24 THE COURT: All right. You don't wish to go any  
25 further?

1 MS. SCHWENDENER: I don't. Thank you.

2 THE COURT: All right. Thank you very much. You may  
3 step down.

4 THE WITNESS: Thank you.

5 (Witness excused.)

6 THE COURT: All right. And before we call our next  
7 witness, we'll take a slight break so we can make sure we have  
8 everyone here that we need. All right. All rise for the jury.

9 (Jury excused.)

10 THE COURT: All right. Plaintiff, anything on the  
11 record?

12 MR. DAVIS: Just a point of housekeeping, Judge. I  
13 had planned on calling Janet Rogers after I had Mayor Kellogg,  
14 who's scheduled to be in tomorrow and after Dr. Nohelty, who's  
15 also going to be in tomorrow. However, in the interest of not  
16 wasting any time, I'm prepared to talk to her today. But I  
17 would like to have an opportunity to bring her back in my case  
18 in chief after those individuals testify tomorrow. My  
19 intention today --

20 THE COURT: Okay. Excuse me, Counsel. Why all this  
21 strategizing on time? I'm telling you this is the first. You  
22 put a witness on. That's it. All right. I mean, that -- you  
23 don't have all these I want to bring her in for this point,  
24 this point. Every other jury I've had on any type of case  
25 including patent trials does not come in twice to explain.

1 MR. DAVIS: Well, I bet the lawyer on the other side  
2 in those cases don't make objections on foundation and things  
3 that could be stipulated to.

4 THE COURT: Oh, yes, they do. You'd be wrong. You  
5 all have --

6 MR. DAVIS: So my issue is I need to talk to Mr.  
7 Kellogg about certain documents I need him to authenticate  
8 first, and then I need to talk to her about those documents.

9 THE COURT: Well, why don't you -- why don't you find  
10 out if they have any objection to the particular documents that  
11 you're talking about. That also is supposed to be part of the  
12 exhibit thing --

13 MR. DAVIS: It is a part of the exhibits.

14 THE COURT: No. No. Between the two of you on the  
15 final pretrial order. If the exhibit isn't objected to, then  
16 you don't need to have somebody else come in and authenticate  
17 it before you can talk to the other person. I want you to look  
18 at that. I don't care what order you put it on. I just need  
19 somebody else with their -- in this seat in about 10 minutes.  
20 All right?

21 MR. DAVIS: I'm with that.

22 THE COURT: All right. 2:00 o'clock.

23 MR. DAVIS: Thank you.

24 THE COURT: All right. I'm not saying, though, they  
25 can come back. Okay. We're not going back and forth.

1 MR. DAVIS: Okay.

2 (Short break taken.)

3 THE COURT: Okay. So who's your next witness?

4 MR. DAVIS: Janet Rogers, Judge.

5 THE COURT: All right. And what is the issue with

6 Miss Rogers and -- Miss Rogers, step out please in the hall.

7 Just right outside the door. Thank you.

8 (Brief pause.)

9 THE COURT: All right. So what are we having -- keep  
10 your voices down.

11 MR. DAVIS: I showed counsel the exhibits, two  
12 exhibits I was interested in. One is the performance review  
13 for Eric Kellogg, my client's predecessor. And the other one  
14 is a buyout contract that he received. And she objects. They  
15 didn't object on the witness list in the joint status report,  
16 but now they object.

17 THE COURT: All right. So can you tell me as to --  
18 now, there was an objection as to -- Mr. Kellogg you have an  
19 objection. I noticed that, but what are you -- what is your  
20 objection to Miss Rogers?

21 MS. SCHWENDENER: We don't have an objection to Mrs.  
22 Rogers. We have an objection to --

23 THE COURT: The exhibit.

24 MS. SCHWENDENER: -- the exhibit that pertains to  
25 Eric Kellogg's performance evaluation and the severance

1 agreement that he received.

2 THE COURT: As to?

3 MS. SCHWENDENER: Relevance and --

4 THE COURT: Well, that's the first one that comes to  
5 this Court's mind. How is that relevant to this case?

6 MR. DAVIS: You already ruled on this in the motion  
7 in limine, Judge, and granted -- or denied their objection to  
8 Mr. Kellogg coming in. He's coming in as a disparate treatment  
9 circumstance.

10 THE COURT: One second. That's to him coming in,  
11 though. Why are you using this document with her?

12 MR. DAVIS: Well, this document is part of the  
13 showing of disparate treatment, Judge.

14 THE COURT: But you're bringing him in to deal with  
15 his own -- and I may say by asking that he not be here till  
16 Thursday, I'm assuming you're going with his schedule, the  
17 Court's a little bit put out because he should be on my  
18 schedule. That puts -- pushes this case to Thursday.

19 MR. DAVIS: He's going to be tomorrow.

20 THE COURT: I thought you said Thursday.

21 MR. DAVIS: I'm sorry --

22 THE COURT: The 1st.

23 MR. DAVIS: -- if I misspoke.

24 THE COURT: So he'll be here Halloween?

25 MR. DAVIS: Yes.



1 THE COURT: Okay. All right. Okay. So all of  
2 that's water under the bridge then. But if it was Thursday, I  
3 was like whoa, wait a minute.

4 All right. So what number since it's your motion in  
5 limine?

6 MS. SCHWENDENER: Well, you already --

7 THE COURT: But can you refer me so I'm looking at --  
8 you all have been putting a lot in front of me. Defendants'  
9 motion number --

10 MS. SCHWENDENER: No. 3, Judge.

11 THE COURT: All right. No. 3 as to --

12 MS. SCHWENDENER: That's to bar reference --

13 THE COURT: Again, it was without prejudice, which  
14 means that they could bring it back again. So that's fine.  
15 The Court did it without prejudice. I think one of the things  
16 was I don't even know if you were talking about whether you  
17 would definitely have him. That was one question. The other  
18 question was, you know, I don't know how he's going to be used.  
19 And I don't think there was any in-depth information, if I  
20 recall, on how you were going to use him. And so I denied it  
21 saying, hey, there's no basis you're showing me to mess with  
22 his witness list. Just because he's mayor now does not, you  
23 know, take him out of a -- the possible witness hat.

24 So that was the reason for it. And I denied it  
25 without prejudice because I did not know how he was going to be

1 used. So --

2 MR. DAVIS: Well --

3 THE COURT: Go ahead.

4 MR. DAVIS: I set forth in my papers, Judge, in my  
5 response to their --

6 THE COURT: Objection?

7 MR. DAVIS: -- motion in limine my objection,  
8 objection to it. That the Seventh Circuit in the Massey case  
9 clearly established that you can show motive and intent in a  
10 retaliation case by showing that similarly situated individuals  
11 were treated differently. That's one of the indirect ways to  
12 show retaliation.

13 THE COURT: And the question is similarly situated.  
14 Other than having the same job, what else -- I'm assuming  
15 that's your issue, that he's not similarly situated?

16 MS. SCHWENDENER: Correct, Judge.

17 THE COURT: And you've read his response. Why are  
18 you -- just spell out a little bit more why you're saying that  
19 this is not a case that, that should be allowed in.

20 MS. SCHWENDENER: Well, this is not a, a disparate --  
21 Judge, may I sit, or would you like me to -- am I okay right  
22 here?

23 THE COURT: Yes.

24 MS. SCHWENDENER: Okay. It is not a disparate  
25 treatment case, Judge, and a First Amendment retaliation

1 whether the district retaliated against Dr. Adams for pursuing  
2 a contract extension. That's the issue. I don't know aside  
3 from Mayor Kellogg having the same position as Dr. Adams,  
4 there's no other similarities between the two. There's no  
5 testimony, and even if Eric Kellogg wasn't punished for  
6 retaliating against for filing a police report against any of  
7 the board members, there's no similarities.

8           And Mr. Rogers was never -- didn't allegedly threaten  
9 Mayor Kellogg and received some type of disciplinary action as  
10 a result. So there's no similarities between the two of them.  
11 And the fact that Eric Kellogg may have received a severance  
12 package and plaintiff didn't goes to the fact that her  
13 contract -- again, goes to the issue of whether her contract  
14 may have been renewed or not or whether she was terminated from  
15 the district, not whether a one-year extension was revoked.

16           Plaintiff -- there would be no reason why plaintiff  
17 would receive any type of severance package. And I don't  
18 believe there's been any argument that plaintiff should have  
19 received a severance package for -- after her contract  
20 extension was revoked.

21           THE COURT: All right. Response.

22           MR. DAVIS: Judge, I don't think the requirement in  
23 the case law is similarity of cause of action. I don't think  
24 you got to show he filed a similar cause of action.

25           THE COURT: No, I'm looking at the fact that the

1 circumstances surrounding it, yes, he may have been terminated,  
2 he may have had a board package. Things may have happened,  
3 happened to him in regards to his own situation with the Board.  
4 But the Board had complaints that he was protecting -- the  
5 allegations that he was protecting political allies and  
6 relatives. That's what was going on here, which has nothing to  
7 do with -- this is all an issue of either what she said and  
8 filing the -- what was said to her, filing the police report.  
9 And maybe there may be some statements about performance  
10 evaluations in general. That does not seem to be the bulk of  
11 the situation with Mr. Kellogg. Why would he testify?

12 MR. DAVIS: The bulk, Judge, is he was disciplined --  
13 well, he wasn't disciplined. That's the issue. His  
14 performance evaluations show that he was rated low on the  
15 performance scale and charged with having some of the same  
16 things that they say Dr. Adams did. They said he didn't  
17 communicate with the board. They said here in the directives  
18 they charged that she changed the summer school schedule  
19 without permission. Well, according to his performance  
20 evaluation, he changed the entire school schedule without  
21 notifying the state, the board, or anybody else.

22 THE COURT: And yet?

23 MR. DAVIS: And yet he was not disciplined. There's  
24 no discipline in his file. Echo, another issue here. We heard  
25 a lot about Echo. For six months he didn't show up to the Echo

1 meeting when he was the co-op board member. It caused the  
2 district thousands of dollars because they were sending  
3 students to a closed building. The building was closed because  
4 of a student strike.

5 THE COURT: All right. Let's go at two parts here.  
6 That's one part of why you want to put him on, and you think  
7 there should be no -- he should not be barred.

8 The second issue is whether or not Miss Rogers -- how  
9 much of this is she going to testify as opposed to Mr. Kellogg  
10 himself?

11 MR. DAVIS: Well, when she was deposed, she was  
12 deposed as the board rep. And so this is why she was  
13 questioned about the disparate treatment of Mr. Kellogg.

14 THE COURT: So she was the board rep for that  
15 deposition?

16 MR. DAVIS: Yes.

17 THE COURT: That's a little bit different from being  
18 the, the chairman of the board say like Miss Gloria Johnson,  
19 right?

20 MR. DAVIS: She's been the board president in the  
21 past. Plus, Judge, the way the school boards work --

22 THE COURT: Well, not in the past. I'm talking about  
23 when Mr. Kellogg was going through what he was going through.  
24 Who was the, who was the board president?

25 MR. DAVIS: Mr. Rogers was I'm told.

1 THE COURT: Mr.?

2 MR. DAVIS: Mr. Rogers. And then for part of it  
3 Janet Rogers was president. So she was president of the board  
4 during part of his tenure as well.

5 THE COURT: Okay. Last, last word even though I'm  
6 going to tell you, the Court does see some of this as relevant.  
7 I'll limit some of the testimony, but it's relevant, especially  
8 if some of the same things on the Echo, on the performance,  
9 et cetera. That's the same thing that happened. He was  
10 preceding her. If he didn't get disciplined, that's relevant  
11 for them to bring out. All right. But the question is I'm not  
12 going to let this go on and on. I'm also -- I don't see any  
13 reason to at all bring Miss Rogers back.

14 MR. DAVIS: Well, I'm fine with that, Judge. And --

15 THE COURT: You'd have to make the case for it later,  
16 but I would not plan on it. I mean, I just don't see based on  
17 what you're telling me that that's the role that's necessary.  
18 You can ask anything you want to about him, or you can talk --  
19 ask her. Or you can have one of the other people who are here  
20 who are defendants. So, you know, we can go do this. And if  
21 there's another one ready, I want another one too.

22 MR. DAVIS: Can we show her his performance review  
23 that she reviewed as a 30 (b) 6 witness?

24 THE COURT: You're going to put her down as an  
25 expert?

1 MR. DAVIS: No. I'm going to -- she was the board  
2 rep --

3 THE COURT: She's a board rep. As an admission?

4 MR. DAVIS: -- when she was deposed. And she --

5 THE COURT: But you're going to have him. She can  
6 talk about what she did as a member of the board, sure. What  
7 she did or she knew the board had, sure. She's a board person.  
8 She can do that. As to being able to give all the information  
9 and what happened between -- you know, Mr. Kellogg is going to  
10 have to tell his side of it, and she'll tell hers. So, in  
11 other words, this isn't going to go far afield. This is  
12 relevant to --

13 MR. DAVIS: Sure.

14 THE COURT: -- the disciplinary action if she has  
15 knowledge of and it was brought before the board and she was a  
16 member of the board. She's a defendant. You want to state  
17 your objection.

18 MS. SCHWENDENER: Yes, Your Honor. Objection for the  
19 record as far as relevance.

20 THE COURT: All right. All right. As to relevance?

21 MS. SCHWENDENER: Correct.

22 THE COURT: All right. Again, but the Court will  
23 limit how far we go. And I'll tell you get in your mind about  
24 the next one. It's only 2:30. And so my expect --

25 MR. DAVIS: Well, I have a lot for Janet Rogers,

1 Judge --

2 THE COURT: Okay. Well, we'll see what a lot is.

3 MR. DAVIS: -- based on my experience. But beyond  
4 that, if you want to go to the next person --

5 THE COURT: We'll see where we are.

6 MR. DAVIS: -- I would like to call Tyrone Rogers,  
7 who's not here.

8 THE COURT: Well, you've got to go with who's here.  
9 You have to let people know if you need witnesses. The  
10 defendant doesn't -- despite your statements, the defendant  
11 doesn't have to be here unless they're being asked to -- you  
12 know, you have subpoenaed them to be here today and they're not  
13 here, then you need to let me know that at the beginning. But  
14 they don't have to be in court for the whole court case.

15 MR. DAVIS: Yes, I --

16 THE COURT: Even the plaintiff doesn't have to be.

17 MR. DAVIS: I decided not to subpoena them, Judge,  
18 because they're under the jurisdiction of the Court. You got  
19 personal jurisdiction. I thought being defendants they would  
20 be here.

21 THE COURT: This is a civil case. They don't have to  
22 be here.

23 MR. DAVIS: But I decided not to subpoena them, so --

24 THE COURT: But you have other defendants here.

25 MR. DAVIS: There are civil cases. One was right



1 down the hall, Judge Tharp had --

2 THE COURT: Okay. Stop right there. Don't compare  
3 me and don't tell me anything about Judge Tharp. All right.  
4 That's Judge Tharp's case, and he's not -- I don't -- he's not  
5 a precedent for me. And the Court is just saying this case had  
6 a lot of different people. A lot of them are here. I'm  
7 certain if you had just told counsel that you needed to have  
8 Mr. Rogers here, they would have had him here. Or if not and  
9 if for some reason you both expected him to be here and he's  
10 not here, then that's worth noting. But --

11 MR. DAVIS: Well, I'll tell them when I want him to  
12 be here, Judge, and we'll go from there.

13 THE COURT: I just need you to be ready with a full  
14 set of witnesses. And since we have defendants here, I'm not  
15 going to let them go early today when everybody here knows we  
16 have people who want to go early tomorrow. And so, you know,  
17 we can't waste the time. We do that, then all of a sudden  
18 we're at Thursday. And by the time Thursday comes, you know,  
19 we're in a pinch, and I don't want to be there.

20 MR. DAVIS: I think I've got enough here, Judge.

21 THE COURT: Okay. Let's see.

22 MR. DAVIS: I've got about 30 pages.

23 THE COURT: If you have all of that, are you sure  
24 there's not something else that we need to talk about before we  
25 start doing sidebars here?

1 MR. DAVIS: Well, the, the tapes. I've got a lot of  
2 tapes, Judge.

3 THE COURT: Which -- okay.

4 MR. DAVIS: But I'm to ask her a question and --

5 THE COURT: My question is do you have objections to  
6 the tapes, and do you know what he's asking?

7 MS. SCHWENDENER: I, I guess -- I don't have a  
8 problem with the tapes if he's using them to impeach her or  
9 refresh her recollection. But just to, to replay what she may  
10 have said at a board meeting, yes, I would object to that.

11 THE COURT: Well, I'm assuming she's -- since she's a  
12 defendant, she's an adverse witness, so he'll already be in  
13 cross-examine mode. His use of them with her is different from  
14 the use with, with the plaintiff.

15 MS. SCHWENDENER: The only other objection for the  
16 record, Judge, is again, I know we talked about the tapes  
17 earlier too, and I'm not trying to be difficult. I understand  
18 that we produced the tapes, but when we produced the tapes, not  
19 all of them had dates on them. So I know counsel stated  
20 earlier that, you know, this is -- you know, I'm going to play  
21 a tape from this July 22nd board meeting. I, I -- because I  
22 didn't get to listen till today and I know that there's an  
23 e-mail issue, I can't necessarily stipulate -- I mean, if the  
24 witness can testify to the date and knows the date and knows  
25 who was present, that's fine. I won't object to it. But I

1 just --

2 THE COURT: I understand what you're saying, Counsel.  
3 But like you just said, these are your tapes. These are your  
4 clients. You produced them without dates. You produced them  
5 to them without identifying markers.

6 MS. SCHWENDENER: Sure.

7 THE COURT: So now you can keep out the tapes that  
8 you produced by saying they don't have enough information?

9 MS. SCHWENDENER: No, I'm not trying to keep them  
10 out, Judge.

11 THE COURT: That doesn't fly.

12 MS. SCHWENDENER: I just, I just -- I don't know --  
13 for the record I can't necessarily stipulate to the dates on  
14 the tapes. If counsel matched up or figured out the dates, I  
15 necessarily cannot stipulate to that. I'm not trying to be  
16 difficult.

17 THE COURT: You don't have to stipulate to it. I  
18 think the thing is is if the dates depending on what it is mean  
19 that much, you're going to have to get out and actually admit  
20 to the jury that your clients don't keep good records. And,  
21 therefore, you don't know. That's up to you. That's the only  
22 way that issue is dealt with. These are your tapes, your  
23 clients. They had responsibility for the tapes and keeping  
24 them straight. And you can't benefit from them not being able  
25 to give good documentation.

1           So the Court will allow you to go into that, but, you  
2 know, they need to know that that's -- that's where you're  
3 going to have to go if you want to challenge what came out on  
4 what date, you know. And, Counsel, you'll have to explain why  
5 you don't have the dates, because the jury doesn't need to be  
6 confused with just having tapes out there. So it's going to  
7 come out once or twice that these were not properly documented  
8 tapes. That's where they are. And he can definitely use them  
9 because they're adverse witnesses.

10           Now, the only issue that you might have, Counsel, is  
11 the fact that if we're using them for admissions against  
12 interest, then we've got to make sure that she's on that tape.

13           MR. DAVIS: Sure.

14           THE COURT: Okay. Or that we have a pretty good idea  
15 she's on that tape.

16           MR. DAVIS: Yes. I'll ask her.

17           THE COURT: Okay.

18           MR. DAVIS: And --

19           THE COURT: And I'll also suggest that we not go  
20 through every tape if all of them are all messed up.

21           MR. DAVIS: Sure.

22           THE COURT: This is no help to the jury.

23           MR. DAVIS: For the sake of clarity, Judge, so we  
24 don't waste time, I intend to ask her in certain instances  
25 she'll be on the tape, other defendants will be talking on the

1 tape. And I'll ask her is that Gloria Johnson saying that  
2 there? Is that Kisha McCaskill? Do you recognize that voice?

3 THE COURT: Yes.

4 MR. DAVIS: It's going to be clear up front.

5 THE COURT: Okay.

6 MR. DAVIS: Because that would expedite everything  
7 rather than trying to bring every defendant to testify about  
8 the same meeting --

9 THE COURT: Okay.

10 MR. DAVIS: -- redundantly.

11 THE COURT: Well, we'll see how it goes. I don't  
12 intend to take too many sidebars. Is there any other question  
13 you have about this? You all know what's on the tapes? You  
14 know the problem with the tape better than I do. And again,  
15 I'm just not going to allow the tapes to be floating out there  
16 if there's no way to tie them up or connect it.

17 MR. DAVIS: Well, to the best of my ability each tape  
18 I introduce I say this is the meeting from June 22nd from  
19 listening to many hours of them and --

20 THE COURT: And Mr. -- Mr. Davis, how many, how many  
21 tapes did you intend to produce here?

22 MR. DAVIS: In the entire case?

23 THE COURT: For today. For this witness.

24 MR. DAVIS: Well, there's going to be three different  
25 tapes, but there's volumes on the tapes. The way the tapes

1 are.

2 THE COURT: Okay. How much do you intend to use?  
3 Remembering your audience and thinking about what they can  
4 stand.

5 MR. DAVIS: I'm not going to use a lot of tapes. If  
6 she's on the witness stand --

7 THE COURT: Thank you.

8 MR. DAVIS: -- then I want her to answer the  
9 questions.

10 THE COURT: Okay. Sounds good.

11 MR. DAVIS: It's just in my experience with  
12 Mrs. Rogers I often have to resort to the tape.

13 THE COURT: Well, if you have to re --

14 MR. DAVIS: But she's --

15 THE COURT: If you have to do that, and then the  
16 Court after watching the dynamics and hearing what her  
17 responses are or lack thereof, the Court will make the  
18 appropriate ruling. All right.

19 MR. DAVIS: Thank you, Your Honor.

20 THE COURT: Anything else?

21 MS. SCHWENDENER: Yes, Judge. One last thing. I  
22 apologize. I did look at the list counsel gave me today for  
23 the tapes, and there are tapes from December of 2016 board  
24 meetings and clips for -- from October 19th of 2015. So I  
25 would just renew my objection. Those are all getting into

1 discussions about issues I believe the Court has already ruled  
2 upon.

3 MR. DAVIS: And I'm not going to get into any of  
4 those issues at this point given the Court's ruling. However,  
5 Your Honor held out a ray of hope that that issue may be  
6 revisited.

7 THE COURT: Not right now it's going to be.

8 MR. DAVIS: Not right now. And so that will be  
9 deferred as a dream deferred.

10 THE COURT: All right. You can have the witness come  
11 if there's nothing else. The jury's been standing up this  
12 whole time. So it might be good for them, but it's time for  
13 them to come in and get to work. All right. All right.  
14 Everybody rise.

15 (Before the jury:)

16 THE COURT: All right. Ladies and gentlemen, you may  
17 be seated. All right. We are here. We're waiting for another  
18 witness. And please step forward, ma'am.

19 MR. DAVIS: Plaintiff would like to call Miss Janet  
20 Rogers.

21 THE COURT: Miss Rogers, as you step over. Ladies  
22 and gentlemen, Miss Rogers is a defendant, a party in this  
23 case. As such, the plaintiff has a right to call a defendant  
24 in their case in chief. They are doing this. They will treat  
25 her as an adversarial witness, which means plaintiff can

J. Rogers - direct by Davis

1 cross-examine her in that form of questioning. All right. And  
2 it works both ways. So if the other side wants to call the  
3 other party in their case in chief, they may do so.

4 JANET ROGERS, PLAINTIFF'S WITNESS, DULY SWORN

5 THE COURT: Keep your voice up at a normal level.  
6 I'll adjust the volume.

7 THE WITNESS: Okay.

8 THE COURT: You can have the water there and serve  
9 yourself, if you need it. Wait until each question is fully  
10 asked before you answer the question. All right?

11 THE WITNESS: Yes, ma'am.

12 THE COURT: All right. Proceed when you're ready.

13 MR. DAVIS: Thank you, Your Honor.

14 DIRECT EXAMINATION

15 BY MR. DAVIS:

16 Q Good afternoon, Miss Rogers. How are you?

17 A I'm doing great today.

18 Q Thank you. Are you currently a member of the Board of  
19 Education for Harvey 152?

20 A Yes.

21 Q How long have you been a member of the Board?

22 A Off and on since 1991.

23 Q And are you related to Tyrone Rogers --

24 A Yes, I am.

25 Q -- the defendant in this case? What relationship is that?



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1 A He's my husband.

2 Q How long have you been married?

3 A Since 2007.

4 Q So you were married in 2015, right?

5 THE COURT: She said since 2007.

6 THE WITNESS: 2007.

7 BY MR. DAVIS:

8 Q Right. Right. Okay. So both you and he were members of  
9 the board in July of 2015, correct?

10 A Yes.

11 Q In February of 2015 isn't it true that you and the other  
12 board members voted to extend the contract of my client Dr.  
13 Adams by one year?

14 A Yes.

15 Q And isn't it also true that before you voted for that  
16 extension, you contacted your lawyer to make sure it was okay  
17 to grant that extension?

18 MS. SCHWENDENER: Objection.

19 THE COURT: As to contacting the -- the form of the  
20 question sustained based on the Court's previous ruling. All  
21 right.

22 BY MR. DAVIS:

23 Q Did you have a discussion with counsel about the contract  
24 extension before? I don't want to know what you said or what  
25 he said. Did you have a discussion?

J. Rogers - direct by Davis

1 A I don't recall.

2 Q Okay. So you don't recall being at a board meeting in  
3 February of 2015 and saying something to the effect -- you  
4 recall being at a board meeting in February talking about the  
5 extension, right?

6 A Yes.

7 Q With the other board members?

8 A Yes.

9 Q And you don't recall telling one of your colleagues,  
10 Dr. Kisha McCaskill that you checked with the attorney and he  
11 said it was okay to give the extension for one to five years?

12 A I don't recall. I could have, but I don't recall.

13 Q Is there something that, that would refresh your  
14 recollection on that -- in fact, let's not do it this way.

15 You were deposed in this case previously, right?

16 A Yes.

17 Q Okay. So is it something I can play for you or show you  
18 that would refresh your recollection about that meeting and  
19 whether you said those things?

20 A If you have the minutes.

21 Q I do in an audio form. Thank you.

22 THE COURT: Well, how can her recollection be  
23 refreshed without the jury hearing that recollection being  
24 refreshed? Do you have the --

25 MR. DAVIS: Well, she has to hear it, yes.

J. Rogers - direct by Davis

1 THE COURT: Do you have the written minutes?

2 MR. DAVIS: Not for that particular meeting, Judge.

3 THE COURT: All right. So, ma'am, you're saying you  
4 can't remember?

5 THE WITNESS: If there's some written minutes, I can  
6 see those, yes.

7 MR. DAVIS: And, of course, you can refresh her with  
8 anything, audio, a write-up --

9 THE COURT: You can, but that's not what the jury's  
10 supposed to see.

11 MR. DAVIS: I understand that's a problem in front of  
12 the jury.

13 THE COURT: I'm not moving them.

14 MR. DAVIS: I understand.

15 THE COURT: All right. Maybe we go back and get it  
16 at the end.

17 MR. DAVIS: Okay.

18 THE COURT: Try another tact. All right.

19 MR. DAVIS: Okay.

20 THE COURT: Thank you.

21 MR. DAVIS: Great. Thank you, Judge.

22 BY MR. DAVIS:

23 Q Are you familiar with the goal cycle that the district has  
24 of setting goals, strategic goals, goals for the  
25 superintendent? Are you familiar with that?

J. Rogers - direct by Davis

1 A Yes. You're talking about two different types of goals,  
2 so I don't, I don't know which one you're talking about.

3 Q Okay. What, what -- you're saying there's two different  
4 types of goals. It's different goals for the superintendent  
5 than for the district strategic goals? Let me do it this way:  
6 Let me show you a document so we're not talking in the  
7 abstract.

8 I'm going to show Plaintiff's Exhibit No. 2, which  
9 was previously published to the jury.

10 MR. DAVIS: Can we publish this to the jury, Your  
11 Honor.

12 THE COURT: Proceed.

13 BY MR. DAVIS:

14 Q Do you see the exhibit on the screen, Miss Rogers?

15 A Not all of it. Just part of it.

16 Q Okay. Let me scroll down.

17 THE COURT: She sees the same part everybody else  
18 sees.

19 BY MR. DAVIS:

20 Q Have you had a chance to look at it?

21 A Yes, sir, I see it.

22 Q Are you familiar with this document?

23 A Yes, I am.

24 Q Are you familiar with the goal cycle that this document  
25 depicts?

J. Rogers - direct by Davis

1 A Yes, I am.

2 Q And isn't it true this is the goal cycle that the district  
3 has been using for a couple of years now to set its goals and  
4 to measure its goals?

5 A What type of goals are we --

6 Q Well, it says it's for setting goals. It doesn't say any  
7 particular type of goals. It says goals.

8 A Can you scroll back to the top. There's a title.

9 Q Okay.

10 A Okay.

11 Q Annual planning and evaluation cycle. Board and  
12 superintendent agree, No. 1, on goals for the year.

13 A Yes, those are district goals.

14 Q And those are the goals that the board and the  
15 superintendent set for the year, correct?

16 A Yes.

17 Q And you monitor those goals according to these bubble  
18 points throughout the year, right?

19 A Repeat your question.

20 Q Those goals are monitored and possibly modified as you go  
21 through the year, correct?

22 A By us or -- you're asking me do we modify them?

23 Q Well, I'm looking at the chart. And it talks about the  
24 different steps you take. Starting in May you set the goals.  
25 In June the administration creates action plans to improve the

J. Rogers - direct by Davis

1 goals. In August the superintendent goes to the board to get  
2 authority to implement the goals. You said you're familiar  
3 with the process, right?

4 A Yes, I -- yes, I am.

5 Q Okay. So in this process starting in May, the goals are  
6 set and then as you go through the year they're monitored and  
7 changed as needed as you go along, is that correct?

8 A Not by the board.

9 Q Who changes them?

10 A The superintendent.

11 Q So you're saying the superintendent can unilaterally  
12 decide to change the goals that were set by the board? It says  
13 that No. 1 the board set the goals in May. So you're saying  
14 that in August if the superintendent decides I don't like those  
15 goals, I want to set new goals, she can do that, or he?

16 A No.

17 Q You're not saying that?

18 A No.

19 Q So these goals are considered when you go to retreats.  
20 We've heard about retreats that you all have, right?

21 A Yes.

22 Q And at the retreat you talk about the goals. You want to  
23 know are you achieving them, right?

24 A Yes.

25 Q And the superintendent will appear at the retreat and tell

J. Rogers - direct by Davis

1 you all this is where we are. This is the progress, this is  
2 what still needs to be done, correct?

3 A Yes.

4 Q And these goals and the superintendent's progress on these  
5 goals are then incorporated in an evaluation that you do of her  
6 performance, right?

7 A No.

8 Q So you're saying that none of these goals and nothing that  
9 she does with regard to these goals has any input in her  
10 performance evaluation?

11 A I didn't say -- some of them are. Some of them aren't.  
12 You're going -- you're talking about goals --

13 Q So which goals -- let's specify then. You tell me which  
14 ones -- which part goes into the performance and which part  
15 doesn't.

16 A This is an annual planning and evaluation cycle, and this  
17 cycle is done twice a year. These goals are set. They're  
18 district goals. They're not -- some are in the  
19 superintendent's contract, some aren't.

20 Q Which ones -- which is which? I don't know. You tell me.

21 A These are the goals that are set for the district. These  
22 are district goals that we set. There's several people that  
23 come in. If you look at the progress that we have and the  
24 information, it's not just the superintendent. It's several  
25 people that come in and they talk about these different things.

J. Rogers - direct by Davis

1 Q On this chart it talks about the board and the  
2 superintendent and the administration. I don't see anything  
3 about anybody else. No. 5, superintendent completes  
4 self-evaluation and work progress towards goals. No. 6, the  
5 board evaluates the superintendent performance in light of the  
6 goals. So according to this chart, which you just said you've  
7 been using for a couple of years, these goals are used to  
8 evaluate the superintendent's performance. Is that what it  
9 just said?

10 A It's not what I said. That's what's here.

11 Q Okay. So you disagree with what's here?

12 A This is an annual planning and evaluation cycle.

13 Q But you just told me this is what you all have been using  
14 for a couple of years in the district.

15 A That's correct.

16 Q And so you've been following these steps, right?

17 A Yes.

18 Q So you followed step No. 6, right?

19 A Some of them we followed, and some of them were not  
20 followed.

21 Q Okay. Well, let's be specific.

22 A Okay.

23 Q In 2015 when you evaluated Dr. Adams in February, January  
24 of 2015, did you follow step 6?

25 A We didn't evaluate her in that -- in 2015, not to my



J. Rogers - direct by Davis

1 recollection.

2 Q Well, can I show you something that might help you  
3 understand that -- when she was evaluated?

4 A Yes, please.

5 Q I'd like to show -- and this is one of those that needs to  
6 be rotated.

7 MR. DAVIS: This has already been published  
8 previously, Judge.

9 THE COURT: All right.

10 BY MR. DAVIS:

11 Q I'm going to show you a document -- can you see the  
12 document?

13 A Yes, sir.

14 Q You see where it says January 2015?

15 A Yes.

16 Q You see it says Harvey Schools 152 superintendent  
17 evaluation?

18 A Yes.

19 Q Does that refresh you that you did evaluate Dr. Adams in  
20 January of 2015?

21 A Yes, it does.

22 Q Okay. So again, when you did this evaluation, you all  
23 according to the goal cycle considered in making these  
24 evaluations her progress towards the goals, right?

25 A Those are two different things. That's the

J. Rogers - direct by Davis

1 superintendent's evaluation, and these are the goal setting.  
2 There's two different documents. That's why I was a little  
3 confused a minute ago.

4 Q Okay. Well, let's try to unconfuse it, if we can. You  
5 keep saying that it's two different things. It's a different  
6 thing. Are you telling me there's another set of goals  
7 somewhere that existed in 2015 that were used to monitor the  
8 superintendent that were different from the goals that the  
9 district had?

10 A In the superintendent's contract, yes.

11 Q So you're saying there were goals in her contract that  
12 were different?

13 A Yes. The paper you showed me earlier was the district  
14 goals.

15 Q Okay. But if we look at the contract, the contract -- and  
16 I'm bringing up Exhibit 1, which was previously published.

17 MR. DAVIS: If we may publish, Your Honor.

18 THE COURT: You may.

19 BY MR. DAVIS:

20 Q If you look at the contract -- you see the contract,  
21 Miss Rogers?

22 A Yes, I do.

23 Q Okay. Now, where are the goals that you're talking about  
24 that are different in the contract? Can you point them out to  
25 me?

J. Rogers - direct by Davis

1 A There are some goals that are written here --

2 Q Goals --

3 A -- on student performance --

4 THE COURT: I'm sorry. You both can't talk at the  
5 same time.

6 THE WITNESS: All right. Talk?

7 THE COURT: Go ahead.

8 THE WITNESS: There's some goals that you have in the  
9 front of me that are goals that looks like they're in the  
10 superintendent's contract that you just presented.

11 BY MR. DAVIS:

12 Q Okay. So what does goal 1 say?

13 A The superintendent will provide leadership to improve  
14 student academic growth.

15 Q And the indicators?

16 A Each fall the --

17 THE COURT: Wait. Wait. Wait. Wait. She's not  
18 going to read all that. We've already had her read all the  
19 same thing.

20 MR. DAVIS: Right.

21 THE COURT: She's your witness.

22 MR. DAVIS: Right.

23 BY MR. DAVIS:

24 Q Okay. So it says goal 1 is student academic achievement,  
25 right?

J. Rogers - direct by Davis

1 A Yes.

2 Q Was that one of the things that was on the chart that we  
3 saw that the district looked at in its goal cycle? Was  
4 academic student achievement in there?

5 A I'd have to go back and look at it. If you have a copy.

6 Q Well, let me ask you in general, would it be important to  
7 the school board in monitoring student academic achievement?  
8 How would you do that? Wouldn't you do that through some of  
9 the goal cycle that we talked about? Are you telling me there  
10 was some other way to monitor No. 1?

11 A Yes.

12 Q Let me ask it this way: Is there a different way to  
13 monitor No. 1, the goal No. 1 in this contract? Is there a  
14 different process than the one that we just looked at in the  
15 chart?

16 A Yes.

17 Q And what is that process?

18 A Through test scores that are provided by Illinois State  
19 Board of Education that's online.

20 Q Okay. So where is that in terms of -- you all have a  
21 written procedure for doing that?

22 A We can go to the student -- the Illinois Association of  
23 School Board's website and look at the test scores.

24 Q Well, I'm asking you, Harvey 152. Did Harvey 152 in  
25 January, February 2015 have a process for using state test

J. Rogers - direct by Davis

1 scores as the way of measure -- of measuring goal 1? Where is  
2 that specified? What policy is that?

3 A Past practice.

4 Q Past practice?

5 A Yes.

6 Q What does that mean? It sounds like a legal term.

7 A We've done it all the time in the district with all the  
8 superintendents. They give information with the Illinois State  
9 Board of Education, and the test scores we can see whether they  
10 went up or went down.

11 Q Okay. So your testimony is forget what this life cycle --  
12 the goal cycle chart says and the fact that you said you all  
13 used it for a couple of years. When it came time for you to  
14 evaluate the superintendent, you looked at what did you say?  
15 Goal No. 1, what is it you looked at?

16 A I didn't say forget the cycle. I said if I wanted to  
17 check test scores, that's what I went to -- we went to do.  
18 We've done that in the past.

19 Q Well, we're not just talking in general. I -- maybe my  
20 questions aren't focused enough. I don't want to know  
21 generally. Anybody that cares about test scores can go check  
22 right now, right, the IASB scores? Anybody can go online and  
23 do that, right?

24 A Yes.

25 Q I'm not asking about that. I'm asking a specific

J. Rogers - direct by Davis

1 question. You've got a contract, and you just told me the  
2 superintendent's contract set forth her goals. And goal No. 1  
3 was improve student academic achievement. And you told me that  
4 numbers -- I asked you if No. 6 in the goal cycle where it said  
5 you considered the superintendent's progress towards goals in  
6 her evaluation was used to evaluate Dr. Adams in 2015,  
7 January 2015, and you said no.

8 And now I'm asking you what did you use? What  
9 instrument did you use? If you didn't use the goal cycle --

10 THE COURT: And, Counsel, you are, you are switching  
11 midstream in questions.

12 THE WITNESS: Confusing.

13 THE COURT: -- in questions. You are lengthening  
14 questions. Then you change the question. I need you to --

15 MR. DAVIS: Okay. Well, let me try it this --

16 THE COURT: We're going to pitch that one. We're  
17 going to try again. All right.

18 MR. DAVIS: Okay. Let me try again, Judge. Thank  
19 you.

20 BY MR. DAVIS:

21 Q Do you have a written document that specifies what goals  
22 you all considered in evaluating Dr. Adams in February 2015?

23 A The superintendent's contract.

24 Q So other than this contract, you have no other  
25 documentation on what was used?

J. Rogers - direct by Davis

1 A And the instrument that you showed me a minute ago, that's  
2 what we used. That's it, yes.

3 Q Okay. So you did use the instrument that I just showed  
4 you?

5 A The superintendent's contract you just --

6 Q And the contract?

7 A And the evaluation, yes.

8 Q Okay. So would it be fair to say here's the contract.  
9 The contract specifies the goals. And then these goals get  
10 implemented through the life cycle chart. And that's how it  
11 works. Is that what you -- we're now -- my understanding?

12 A You have to repeat the question.

13 Q So these goals in the contract are incorporated in the  
14 life cycle report that we have been talking about, right?

15 A It looks like some of them are, yes.

16 Q And they're used throughout to evaluate the  
17 superintendent. So I want to move on, Miss Rogers. Did you  
18 all have a retreat in June 2015?

19 A Yes, we did.

20 Q And isn't it true that Dr. Adams appeared at that retreat  
21 and presented to the board her progress towards the goals for  
22 that academic year?

23 A Toward the district goals, yes.

24 Q Okay. And did you all hear her presentation?

25 A Yes.

J. Rogers - direct by Davis

1 Q And isn't it true that she reported significant progress  
2 in student academic achievement?

3 A Which was not true, yes.

4 Q I'm asking you a yes, no question.

5 A Yes.

6 Q Did she present progress in student academic achievement?

7 A Yes.

8 Q And are you now saying -- and did anybody -- you just said  
9 it wasn't true. Did anybody at the meeting say that's not  
10 true?

11 A No.

12 Q She presented goals on providing professional development  
13 for the staff in the district, is that right?

14 A Yes.

15 Q And she showed progress there, right?

16 A I don't recall.

17 Q Okay. Did she present on financial stability in the  
18 district?

19 A Dr. Nohelty did. He worked for the district.

20 Q Well, he was her subordinate, right?

21 A Yes.

22 Q Okay. He was the business manager and she was the  
23 superintendent, right?

24 A He was the assistant superintendent in charge of business  
25 affairs.



J. Rogers - direct by Davis

1 Q Okay. So I don't want to make this too long, Miss Rogers,  
2 on this point. At any point when she presented the goals at  
3 the meeting in June 2015, did anybody say what you're saying is  
4 not valid, it's not true and challenge what Dr. Adams  
5 presented?

6 A I did not at that meeting, no.

7 Q Did any board member at that meeting?

8 A I don't recall, but not to my knowledge.

9 Q Okay. And did any board member say at that meeting those  
10 aren't our goals, those are the district's -- those are the  
11 district's goals? Those aren't your performance goals? Did  
12 anybody tell her those goals are one thing, but now let's talk  
13 about your individual performance goals?

14 A Not to my knowledge.

15 Q So did anybody at the retreat bring up any performance  
16 issues outside the goals? Anything, absenteeism, anything with  
17 Dr. Adams at the retreat in June of 2015?

18 A That was three years ago. I'd have to see some  
19 documentation, some minutes if you have them preferably.

20 Q Okay. So you don't recall?

21 A No, I don't recall.

22 Q Is there something -- well, I'd have to play the audio of  
23 the tape to refresh your recollection. Let me ask you this,  
24 Miss Rogers: You were deposed in this case, right?

25 A Yes.

J. Rogers - direct by Davis

1 Q Testified under oath?

2 A Yes.

3 Q And I'm trying to see -- and you testified that Dr. Adams  
4 presented improved reading scores in all grades except 6th in  
5 your deposition?

6 A I don't recall.

7 Q Okay. Let me show you your deposition. Would that  
8 refresh your recollection?

9 A Yes.

10 Q So I'm looking at Plaintiff's Exhibit No. 59.

11 MR. DAVIS: And I'd like to publish, Your Honor.  
12 It's the deposition of Janet Rogers. You could see for  
13 yourself what it is.

14 THE COURT: Well, I'm not going to publish that yet.  
15 Go ahead and ask the question.

16 BY MR. DAVIS:

17 Q Okay. So Dr. Adams you were questioned reported that  
18 students had improved in reading in all grade levels except  
19 grade 6. Did she report that at the meeting?

20 A I don't recall.

21 Q So I'd like to look at page 120, lines 10 to 24 where this  
22 was talked about at your deposition. And see if that would --  
23 would that refresh you.

24 MS. SCHWENDENER: Judge, I'm just going to object as  
25 far as improperly refreshing the witness' recollection.

J. Rogers - direct by Davis

1 THE COURT: Well, he's asking her what would refresh  
2 her recollection.

3 MR. DAVIS: Yes, I did, Judge.

4 THE COURT: As opposed to what she's responding to.  
5 Again, ma'am, would this document refresh your recollection as  
6 to what was said?

7 THE WITNESS: Yes.

8 THE COURT: She said, yes, it would.

9 BY MR. DAVIS:

10 Q Read line 10 through 24, Miss Rogers.

11 THE COURT: On what page?

12 MR. DAVIS: On 120, which is now on the screen,  
13 Judge.

14 THE COURT: 120 is on the screen? It looks like it's  
15 117.

16 MR. DAVIS: I'm sorry.

17 THE COURT: That's okay.

18 MR. DAVIS: Well, on my screen it says it's 120.

19 THE COURT: All right.

20 MR. DAVIS: It's 120 in the document Exhibit No. 59.

21 THE COURT: All right. And it's on the screen in  
22 front of the witness. All right. So she can read it. Ma'am,  
23 why don't we start at the top.

24 MR. DAVIS: From line 10?

25 THE COURT: No, you tell me. If she's refreshing her

J. Rogers - direct by Davis

1 recollection, where should she start at?

2 MR. DAVIS: Line 10, Judge.

3 THE COURT: All right. So read to yourself what's on  
4 the screen. And then if you need him to scroll down, you can.

5 MR. DAVIS: And can we publish this? I'm sorry,  
6 Judge.

7 THE COURT: No. This is being used to refresh her  
8 recollection.

9 MR. DAVIS: Okay.

10 THE COURT: All right. Why don't you start  
11 scrolling. All right. Just the bottom of the page, Counsel?

12 MR. DAVIS: For now, Judge, yes.

13 THE COURT: All right. Does that --

14 MR. DAVIS: It actually rolls over to 121, but we can  
15 stop --

16 THE COURT: Well, if 121 is part of the refreshing of  
17 her recollection, you can go on to 121.

18 MR. DAVIS: Yes.

19 THE COURT: Go on down.

20 BY MR. DAVIS:

21 Q And look at 121, line 1 to 24, Miss Rogers.

22 THE COURT: All right.

23 BY MR. DAVIS:

24 Q I'll scroll. Tell me when I need to scroll.

25 A Scroll up -- scroll down.

J. Rogers - direct by Davis

1 Q Is that enough or do you want me to go further?

2 A Yes. That's enough.

3 Q Okay. Did you read -- well, I need you to look at the  
4 whole document. I'm still scrolling. Let me know when to  
5 stop.

6 THE COURT: She's saying her recollection is  
7 refreshed. Is that correct, ma'am?

8 THE WITNESS: Yes.

9 THE COURT: All right. That's it. Then okay. Ask  
10 the question.

11 BY MR. DAVIS:

12 Q So now we can take this. So, in fact, Miss Rogers, Dr.  
13 Adams at the retreat reported significant progress in student  
14 achievement, correct?

15 A Yes, she did.

16 Q And she also reported establishing professional  
17 development goals for the staff at the retreat, right?

18 A I don't recall, but I do see what you just said.

19 Q Well, that was in the -- what you just read had an audio  
20 where she was repeating what she said at the meeting, right?

21 A With student achievement, yes.

22 Q Right. But you didn't see the other things she reported?

23 A No. You stopped at a certain page.

24 Q Okay. Well, do you recall that she presented more than  
25 student achievement --

J. Rogers - direct by Davis

1 A Yes.

2 Q -- at the board meeting?

3 A Yes.

4 Q Accomplishments?

5 A Yes.

6 Q You recall that?

7 A Some accomplishments, yes, I do recall that she presented.

8 Q And you've already testified there were no disciplinary  
9 issues raised at that meeting by you or any board member,  
10 correct?

11 A I can't speak for the others. I can only say that I did  
12 not.

13 Q Well, do you have any recollection?

14 A That I did not, yes.

15 Q I beg your pardon?

16 A I have recollection that I did not.

17 Q Do you have any recollection that any -- you were in the  
18 meeting, right?

19 A Yes.

20 Q Do you have any recollection that anybody else brought up  
21 any performance issues?

22 A Not to my knowledge.

23 Q Okay. Thank you. So -- and do you have any knowledge of  
24 any other goals, any separate goals being discussed at that  
25 meeting or any meeting? Do you have any recollection of any

J. Rogers - direct by Davis

1 District 152 meeting where a separate set of goals for the  
2 superintendent Dr. Denean Adams were discussed among the board  
3 members?

4 A Not to my knowledge.

5 Q So we've already talked about Echo, and Echo being a  
6 cooperative and the Echo shortfall. Are you familiar with the  
7 Echo situation?

8 A Yes, I am.

9 Q And, in fact, on July 10th you brought up an agenda item  
10 to put Echo on the -- call a special board meeting to discuss  
11 it, correct?

12 A To add it to the agenda for the special board meeting,  
13 yes, I did.

14 Q And that was July 10th, 2015?

15 A Yes, it was.

16 Q And that was after you found out that Dr. Adams made a  
17 report to the police about your husband?

18 A Absolutely not true. Not true.

19 Q What's not true?

20 A That was not after I found out anything about a report.  
21 That was before.

22 Q So your testimony is that on July 10th when you came in  
23 and said put this on the agenda item, I want a special meeting,  
24 at that time you did not know that Dr. Adams had spoken to the  
25 police about your husband?

J. Rogers - direct by Davis

1 A I didn't even talk to Dr. Adams. Absolutely not, that day  
2 on the 10th. No conversation.

3 Q That's not my question. I just asked you a question. Are  
4 you testifying here that when you put the agenda item --  
5 circulated the agenda item saying that you wanted Echo put  
6 on -- you wanted to call a special board meeting, did you know  
7 before you did that, that Dr. Adams had spoken to the police  
8 about an incident with your husband?

9 A Absolutely not.

10 Q So you wanted the Echo issue put on the agenda item for  
11 discipline against Dr. Adams, right?

12 A I wanted it to be put on there so the Board could know  
13 what was going on with Echo.

14 Q Okay. And you felt it was important for the board to find  
15 out about this, right?

16 A Absolutely, yes.

17 Q And isn't it a fact that you knew about the Echo shortfall  
18 in May of 2015? You learned about it in May?

19 A Yes.

20 Q And did you tell the board in May about the Echo  
21 shortfall?

22 A No.

23 Q So it wasn't -- but -- so you didn't tell the board in May  
24 when you found out, but then July 10th you -- it was an  
25 urgent -- you had a need you wanted the board to know, right?



J. Rogers - direct by Davis

1 A Yes.

2 Q Okay. Thank you. Isn't it true that -- who was the  
3 superintendent before Dr. Adams?

4 A Mr. Kellogg.

5 Q And he was superintendent -- at the same time he was the  
6 superintendent of the schools he was the Mayor of Harvey,  
7 right?

8 A Yes.

9 Q He was doing both jobs at the same time, full-time?

10 MS. SCHWENDENER: Objection. Objection.

11 THE COURT: Basis?

12 MS. SCHWENDENER: Relevance.

13 THE COURT: Overruled.

14 BY MR. DAVIS:

15 Q He was doing both jobs at the same time?

16 A Yes, he was.

17 Q And your husband was and is employed by Mr. Kellogg,  
18 right?

19 A Yes.

20 Q And he's known Mr. Kellogg how many years?

21 A I don't, I don't know.

22 Q Five years, two years, three years? How long has he been  
23 working for the city?

24 A About 10 years maybe. Just a guesstimate. I don't really  
25 know.

J. Rogers - direct by Davis

1 Q And he was hired by Mr. Kellogg, right?

2 A No, he was hired by the city administrator.

3 Q Okay. Was Mr. Kellogg the mayor when he was hired?

4 A Yes.

5 Q Didn't you tell the board members in a meeting to discuss  
6 Echo on July 22nd, in the special meeting, didn't you tell them  
7 that when Kellogg was the superintendent, he failed to go to  
8 the Echo meetings for six months?

9 A I don't recall, but I could have.

10 Q So you have no recollection of saying, Eric didn't go to  
11 the meetings for six months, and we had students going up to  
12 Echo and -- you don't remember that?

13 A I could have said it, but I don't know how many months.

14 Q So you remember the incident?

15 A Yes.

16 Q So let me see if I got the incident right. He failed to  
17 go to the meetings, right?

18 A He failed to go to some of the meetings, yes.

19 Q Right. And because he didn't go to the meetings, he  
20 didn't report to the board that Echo was closed. There was a  
21 strike going on, right?

22 A Yes.

23 Q So the district had students that it was paying for to go  
24 to Echo for services, and they were showing up at a closed  
25 building, right?

J. Rogers - direct by Davis

1 A I don't recall that part, but I knew that there was a  
2 strike going on.

3 Q So if there was a strike, that meant the school -- Echo  
4 was closed, right?

5 A Not necessarily.

6 Q So do you recall telling the board members that the  
7 students were showing up and the place was closed?

8 A I could have, but I don't, I don't remember. I don't  
9 recall that part.

10 Q Okay. Do you recall telling the board members that Dr.  
11 Adams should be written up for that just like Eric was written  
12 up -- Mr. Kellogg was written up?

13 A I did have some discussion about it, and I don't know  
14 whether those were the exact words. But I could have said it,  
15 yes.

16 Q You were deposed, and we talked about this during your  
17 deposition, right?

18 A Yes.

19 MR. DAVIS: Okay. And I want to play the tape, audio  
20 of the July 22nd meeting where Miss Rogers talked about this,  
21 Judge.

22 THE COURT: That she talked about this generally  
23 or --

24 MR. DAVIS: She talked about Eric Kellogg and this  
25 discussion we're talking about now.

J. Rogers - direct by Davis

1 THE COURT: All right. You can come to the side.

2 (Sidebar proceedings out of the hearing of the jury:)

3 THE COURT: She hasn't denied this, so why are we  
4 going to the tape?

5 MR. DAVIS: Well, she's wishy washy saying she  
6 doesn't recall if she said that he should be disciplined --  
7 that she should be disciplined the same way Eric was.

8 THE COURT: She said she could have said it. She,  
9 she admitted it. Why --

10 MR. DAVIS: Okay. I'll ask her if she said she could  
11 have said it.

12 THE COURT: Did anybody talk about settling this hot  
13 mess? Because y'all should be embarrassed. The mayor is the  
14 superintendent of the dang school board. What the heck is  
15 going on? Did you all realize this? You all knew this fact?

16 MR. PETRARCA: I wasn't doing any work there at that  
17 time, Judge. My partner may have been, but I wasn't.

18 THE COURT: This is not good for either side. It  
19 looks bad all around. I don't know if there was ever any talks  
20 about settling this, but --

21 MR. DAVIS: It wasn't, Judge. They didn't make an  
22 offer.

23 MS. SCHWENDENER: That's not true.

24 THE COURT: You have to make a demand. They don't  
25 just make an offer.

J. Rogers - direct by Davis

1 MS. SCHWENDENER: We did make an offer, Judge.

2 MR. DAVIS: They made an offer of 15,000.

3 MR. PETRARCA: Judge, can I write a figure down on  
4 here.

5 THE COURT: We'll do it during the -- we'll do it --  
6 we'll talk about it during the break. Just, just remember that  
7 I did ask. Mostly because this isn't going to get any better.  
8 And you're going to have more witnesses on here. And again,  
9 all this stuff is out there, and you've got people admitting to  
10 this. You got somebody who at one time was both -- holding  
11 both offices. This is not good. He's coming on tomorrow, and  
12 he gets to be asked about it. So, you know, I don't know if  
13 you have somebody out here who you can also go to who's  
14 watching this. But, you know, you all are putting all this  
15 work into it. It has nothing to do with you all's counsel.  
16 You're dealing with the hand you're dealt, you know. I mean,  
17 everybody's got some issues here.

18 MR. PETRARCA: I agree totally, Judge. I don't know  
19 what this has to do with a First Amendment claim, but --

20 THE COURT: I don't either, but the door is open. If  
21 you're talking about firing somebody, I have to let some of  
22 this in. So that's the issue. So we'll go back. We'll talk  
23 about it. But she's admitting to some extent that she said it.  
24 So, you know, I don't know why the tape is coming in.

25 MR. DAVIS: Well, if she gives it up.

J. Rogers - direct by Davis

1 THE COURT: Yes. I mean, she basically said yes.

2 Oh, yes, I don't remember, but I could have said that.

3 MR. DAVIS: You're right, Judge. I can --

4 THE COURT: She said it. So go from there.

5 MR. DAVIS: I'll go from there.

6 THE COURT: All right. Thank you.

7 MR. DAVIS: Thank you.

8 (Before the jury:)

9 THE COURT: All right. Ladies and gentlemen, we're  
10 back.

11 BY MR. DAVIS:

12 Q So, Mrs. Rogers, you basically said you could have said at  
13 the July 22nd meeting, 2015, you could have said Eric didn't go  
14 to Echo for six months and the kids were showing up and the  
15 place was closed? You say you could have said that, right?

16 A Yes. I knew it was a strike going on.

17 Q Right. Okay. You also said that Eric was disciplined for  
18 it. You specifically said he was written up. You remember  
19 that?

20 A Yes.

21 Q And you said Dr. Adams should be written up the same way  
22 Eric, Mr. Kellogg was written up, right?

23 A I don't recall. But I could have said it because she  
24 missed 20 days of the meetings.

25 Q So she -- you could have said that. You're not saying you

J. Rogers - direct by Davis

1 didn't say it?

2 A No, I'm not saying I didn't.

3 Q And you were questioned at your deposition about why there  
4 was no write-up on Eric Kellogg for not going to Echo. You all  
5 produced -- let me ask two questions.

6 You all produced documents in connection with this  
7 litigation, right?

8 A The District did, yes.

9 Q Yes. And in those documents it included personnel files  
10 for other employees including Eric Kellogg, right?

11 A Yes, it could have been.

12 Q And you were questioned at your deposition why there was  
13 no write-up for Eric Kellogg. You remember that?

14 A I don't remember that particular part --

15 Q Could you --

16 A -- but you could have.

17 Q You could have --

18 A Uh-huh.

19 Q -- been questioned about that?

20 A Yes.

21 Q And without belaboring the point, Eric Kellogg left the  
22 district in 2013 just before Dr. Adams came in, right?

23 A Yes.

24 Q And Eric Kellogg was given a buyout contract to leave the  
25 district, is that true?

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1 MS. SCHWENDENER: Objection.

2 THE COURT: Objection sustained. That part's  
3 irrelevant.

4 BY MR. DAVIS:

5 Q Okay. Well, was Eric Kellogg given a severance package  
6 when he left the district?

7 MS. SCHWENDENER: Same objection.

8 THE COURT: Objection sustained. No relevance on  
9 that point.

10 MR. DAVIS: Well, may I speak on that, Judge.

11 THE COURT: Not right now.

12 MR. DAVIS: Okay.

13 THE COURT: Move on.

14 BY MR. DAVIS:

15 Q So academic achievement under Eric Kellogg went down in  
16 the district, right?

17 A Yes.

18 Q And when Dr. Adams came in, we already talked about the  
19 improvement she reported in academic performance of students,  
20 right?

21 A Yes. What she reported, yes.

22 Q Okay. You got something -- is there something you want to  
23 say on that subject, Miss Rogers? Are you saying that Dr.  
24 Adams --

25 A Yes.



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1 Q -- reported --

2 A Yes.

3 Q -- false or misleading information?

4 A You asked me did I want to say something, and I said yes.

5 Q I'm asking you -- no, answer my specific question. Are  
6 you saying that any information Dr. Adams reported to the  
7 district at any time, are you saying that it was not true?

8 A I didn't say any. Talking about the --

9 Q Okay. Regarding student academic performance, are you  
10 saying Dr. Adams reported false or misleading information?

11 A Yes.

12 Q When did she do that?

13 A At the retreat.

14 Q Which retreat --

15 A Go back and look at the test scores online. They are  
16 20 percent lower than what she reported to us.

17 Q Which retreat is this?

18 A The retreat we had in June.

19 Q And so when did you do this -- when did you look online  
20 and discover this?

21 A After the retreat.

22 Q How far after? 2018? Was it recently?

23 A Shortly after the retreat.

24 Q So shortly after June 2015?

25 A That's correct.

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1 Q Would that have been before or after July 10th?

2 A Before.

3 Q Okay. So you looked online after the retreat and you  
4 discovered, oh, she misled us, right? Is that what you're  
5 saying?

6 A I said the scores were not correct that she presented at  
7 the retreat.

8 Q Okay. So that would have been misleading, right?

9 A Yes.

10 Q So did you call a board meeting? We know you called --  
11 you know how to call a special board meeting, right? You've  
12 done that, right?

13 A Yes, I've called a special board meeting.

14 Q Okay. Did you call a special board meeting and say Dr.  
15 Adams gave us some phony test scores?

16 A No. I called Dr. Adams.

17 Q Answer my question.

18 A No, I did not call a special board meeting.

19 Q Okay. Did you document anywhere that Dr. Adams gave us  
20 some phony information?

21 A No.

22 Q Did any other board member document anywhere that she gave  
23 you some phony information?

24 A Not to my knowledge.

25 Q And in the write-up that you all did, August 17th, the

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1 performance directives, you're familiar with those; right?

2 A Yes, I am.

3 Q Did that say in there anything about phony test scores for  
4 student academic achievement?

5 A Not to my knowledge.

6 Q Thank you, Miss Rogers.

7 A You're welcome.

8 THE COURT: I don't think he's done.

9 BY MR. DAVIS:

10 Q So let's talk about the June -- August 17th performance  
11 directives. You all issued a set of performance directives to  
12 Dr. Adams, right?

13 A That's correct.

14 Q And one of the performance directives was about Echo,  
15 right?

16 A Yes.

17 Q And what did Dr. Adams -- well, let me put it to you this  
18 way: Didn't Dr. Adams tell you all that when she found out  
19 about the Echo problem, she asked her staff to investigate the  
20 issue?

21 A In October, yes.

22 Q She didn't tell you that in July?

23 A She asked the business manager to investigate it in  
24 October. You showed it on the paper when I was in court here.

25 Q Well, actually she asked him in October to work out a

J. Rogers - direct by Davis

1 payment plan?

2 A That's correct.

3 Q I'm not asking about the payment plan.

4 A Okay.

5 Q I'm saying when you all confronted her and said, oh, we  
6 didn't know about Echo, Echo, Echo, what -- didn't she tell you  
7 as soon as I got the shortfall numbers I asked Dr. Sophia  
8 Jones-Redmond to investigate to make sure the number was right?

9 A Did she tell us that?

10 Q Yes.

11 A That's what you showed in the paper earlier, yes.

12 Q And, in fact, you yourself commented at one of the  
13 meetings, at the meeting in July that Echo was all messed up,  
14 right? The numbers, the billing was messed up. Didn't you say  
15 that at the meeting?

16 A Yes, for all the districts.

17 Q Right. And Echo, in fact, fired you reported to the other  
18 board members their whole staff because -- the whole  
19 accounting, business manager, they fired everybody, right?

20 A That's correct.

21 Q Because the numbers were so messed up?

22 A Not because of that. Because of other things also, but  
23 that was part of it.

24 Q Well, what you said at the meeting was because they had a  
25 \$3.8 million budget shortfall.

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1 A Yes.

2 Q Is that what you said at the meeting?

3 A Yes.

4 Q Okay. So Dr. Adams told you all she wanted to make sure  
5 before she wrote a check the numbers were valid. So I don't  
6 want to belabor that. You've testified to that.

7 The second thing that happened at the August 17th  
8 meeting in the performance directives is you all said Dr. Adams  
9 violated policy because she was signing checks without getting  
10 board prior approval, is that correct?

11 A No, it's not.

12 Q You didn't say that she signed a check?

13 A Signed contracts.

14 Q Okay. A contract. A check for a contract with Imagine  
15 Learning, right? She signed a contract with Imagine Learning  
16 without getting Board approval, right?

17 A That's correct.

18 Q And you all -- one of the performance directives was  
19 because she did that, right?

20 A That's correct.

21 Q Isn't it a fact that Dr. Adams told you all that she had  
22 been signing these type of instructional contracts since she  
23 had been in the district since 2013, and she had never been  
24 required to ask for board approval prior to signing?

25 A It's board policy anything over \$25,000 that she gets

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1 approval.

2 Q I'm not asking you what the board policy is.

3 A Oh, okay.

4 Q Didn't she say I've always done this since I've been here?

5 A She said she's always done it, but she was corrected,  
6 that's correct.

7 Q Just answer my question.

8 THE COURT: She did, Counsel. Proceed.

9 MR. DAVIS: Okay, Judge.

10 BY MR. DAVIS:

11 Q And she told you the reason she did it -- why did she sign  
12 the contract? Didn't she say it was to save money for the  
13 district?

14 A That's what she said earlier today, yes.

15 Q Well, isn't that what she told you all when discussing the  
16 issue in August?

17 A I don't recall what she told us in August.

18 Q So does that mean she could have said it?

19 A I don't know whether she said it or not in August. I  
20 can't tell you.

21 Q Okay. Well, do you recall this -- let me ask you this:  
22 Didn't you say both her and Dr. Nohelty -- we already  
23 established Dr. Nohelty is her subordinate, right?

24 A Yes.

25 Q Didn't you say both her and -- and I won't use the

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1 profanity that you used at the time. Did you say her and  
2 Nohelty were signing stuff without board approval? Didn't you  
3 say that at the meeting?

4 A I could have. I don't recall, though.

5 Q Well, I'm not going to go back to the tape.

6 A Okay.

7 Q I'm going to accept that you say you could have said it,  
8 right?

9 A Yes.

10 Q And you do know Dr. Nohelty was signing contracts, right?

11 A No.

12 Q So you just said you could have said that he did. Are you  
13 telling me now you had no knowledge that Mr. Nohelty ever  
14 signed a contract without board approval?

15 A I said I don't recall whether they did or not. I could  
16 have.

17 Q You were deposed on this subject, right?

18 A Yes.

19 Q And didn't you say at your deposition that Mr. Nohelty  
20 signed contracts without board approval?

21 A I think you put some things in the front of me at that  
22 particular point, and I said yes, that was the same -- that was  
23 the document.

24 Q Okay.

25 A But I don't have it in the front of me now, so I don't

J. Rogers - direct by Davis

1 recall.

2 Q But you do recall saying this in your deposition --

3 A I don't --

4 Q -- upon being shown the document?

5 A I really don't recall.

6 THE COURT: She doesn't recall, Counsel. You can  
7 play the tape over objection.

8 MR. DAVIS: Okay. So I can play the tape, Judge?

9 THE COURT: That's what I just said.

10 MR. DAVIS: Thank you. Let me find the tape now.

11 Okay. Plaintiff's Exhibit No. 71. And this is volume No.  
12 VN810188 dot redact. And this is from the 7/22/15 board  
13 meeting.

14 THE COURT: You said redacted. Okay. Go ahead.

15 MR. DAVIS: And I'm going to play something for you.

16 THE COURT: Make sure the sound is up, Counsel.

17 MR. DAVIS: Okay, Judge.

18 THE COURT: It's playing now. You just don't have  
19 sound.

20 MR. DAVIS: Okay. I'm trying to get to the precise  
21 point on this tape.

22 THE COURT: Go a little bit before it, Counsel.

23 MR. DAVIS: Okay.

24 THE COURT: Just a little bit. And then check your  
25 sound. We're going to take a quick break. All right. Ladies



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1 and gentlemen, we'll get this technically together. All rise.

2 (Jury excused.)

3 THE COURT: Ma'am, if you need to step out and use  
4 the facilities, you may do so quickly. I think we're just  
5 doing a technology thing here. I won't even leave the bench  
6 until we --

7 MR. DAVIS: I'm going to do this now.

8 THE COURT: All right. So if you wish to just take a  
9 walk outside. You can't review anything or discuss your  
10 testimony with anyone. You're still under oath.

11 (Short break taken.)

12 THE COURT: We'll have the jury come back, and we  
13 will be ready to roll. Ma'am, you can come back to the stand.

14 (Before the jury:)

15 THE COURT: All right. You may be seated, ladies and  
16 gentlemen. Thank you for your patience. Between technical  
17 difficulties and a matter that was going on that we had to deal  
18 with, the delay could not be helped, and we will proceed. I  
19 think we got the technical dealt with, is that correct?

20 MR. DAVIS: Yes, Judge.

21 THE COURT: All right. And are you going to help  
22 make sure?

23 MS. SCHWENDENER: Yes.

24 THE COURT: Thank you very much. All right. And  
25 once again so that the jurors can be reminded, hold up. Pause

J. Rogers - direct by Davis

1 it one second. All right. This was where we were where you're  
2 playing a board tape, is that correct?

3 MR. DAVIS: Yes, Judge. This is a tape of the  
4 July 22nd, 2015 board meeting.

5 THE COURT: All right.

6 MR. DAVIS: Closed session.

7 THE COURT: All right. And this is --

8 MR. DAVIS: This is exhibit number --

9 THE COURT: This is after the response that the  
10 witness here was not quite certain of what was said or what  
11 wasn't, is that correct?

12 MR. DAVIS: Yes.

13 THE COURT: That she might have said something or  
14 something may have been said.

15 MR. DAVIS: Right. I asked the witness if Dr.  
16 Nohelty had signed contracts without board authorization, and  
17 she wasn't sure.

18 THE COURT: All right. All right. Proceed.

19 BY MR. DAVIS:

20 Q Good afternoon again, Mrs. Rogers. So my question is  
21 didn't you say at the July 22nd, 2015 board meeting that Dr.  
22 Nohelty had signed contracts without first obtaining board  
23 approval?

24 A Yes, I did.

25 Q Okay. Thank you. Isn't it also true that Dr. Adams told

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1 the board on July 22nd that she had always been authorized  
2 since she had been in the district to sign instructional  
3 contracts, and she had never been required to get board  
4 approval before signing them? Didn't she tell you that?

5 A Yes, she did. She said that.

6 Q Thank you. And isn't it also true that I asked you if Dr.  
7 Nohelty was ever disciplined for signing checks without board  
8 approval, and you said no.

9 A Signing checks?

10 Q Contracts. You want me to rephrase it?

11 A You said checks. I thought you said contracts.

12 Q Okay. Let me start over.

13 A Okay.

14 Q Isn't it true that you've stated that Dr. Nohelty was  
15 never disciplined for signing contracts without board approval?

16 A I said not to my knowledge. You'd have to recollect.

17 Q Well, I think you were more --

18 THE COURT: You know, Counsel, I'm going to warn you,  
19 you can't testify so ...

20 BY MR. DAVIS:

21 Q Okay. All right. Well, I will come back to that, and  
22 we'll play your actual response on that subject.

23 THE COURT: And for some reason you don't want to  
24 play it now?

25 MR. DAVIS: I do want to play it now, Judge. I just

J. Rogers - direct by Davis

1 need to find out in my notes here. Give me one second.

2 (Brief pause.)

3 THE COURT: So this was not the cue up we had ready  
4 to go, Counsel?

5 MR. DAVIS: Not on this specific question, Judge.

6 THE COURT: All right. Then, yes, I agree, come back  
7 to it. We have -- that clock is a little bit fast. We have  
8 about 15 minutes or so, 20 minutes.

9 MR. DAVIS: Okay.

10 THE COURT: Make the best use of your time.

11 BY MR. DAVIS:

12 Q So, Mrs. Rogers, you all at the August 17th meeting voted  
13 to issue performance directives. And one of the performance  
14 directives was that Dr. Adams had made changes to the summer  
15 school program without prior board approval, correct?

16 A Yes.

17 Q But, in fact, hadn't she circulated a newsletter in June  
18 with the changed schedule for the summer school to the board?

19 A Yes, she circulated it, but no approval.

20 Q Right, but if the board -- did the board -- so the board  
21 received the schedule, right?

22 A In a newsletter, yes.

23 Q Yes. And did anybody on the board say, oh, we don't want  
24 these changes, what's going on, stop this? Did anybody say  
25 that?

J. Rogers - direct by Davis

1 A Yes.

2 Q So they told her don't implement these --

3 A They. I mentioned it to her that it's past practice that  
4 it's always approved by the board when the workday changes in  
5 the school district. She gives us the schedule, and we approve  
6 it. She just bring it to the board meeting.

7 Q Did she take it to the curriculum committee or any other  
8 committee? Isn't that the normal process?

9 A No. When you change the workday of the employees, the  
10 school board always approves it. She had the power to do it,  
11 but she had to bring it to us for approval.

12 Q Right. Okay. So let's assume for the sake of argument  
13 you just got the newsletter and you saw the change, right?

14 A Yes.

15 Q And the other members saw it, right? Did anybody other  
16 than you having a conversation -- when did you -- this  
17 conversation you say you had with Dr. Adams, when did that take  
18 place?

19 A I don't recall. But when I got the newsletter, I gave her  
20 a phone call.

21 Q Was it before July 1st, which is the date the school --  
22 summer school would start?

23 A I don't recall. I really don't. I can't say it because I  
24 don't want to force it --

25 Q But it could have been after the summer school started?

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1 A It could have been.

2 Q Okay. You had this discussion with her. So to your  
3 knowledge did any other board member who received the schedule,  
4 change schedule say let's not do this or question Dr. Adams  
5 about why she didn't get prior approval?

6 A Not to my knowledge.

7 Q And, in fact, she told you the reason she was -- when you  
8 all gave her these performance directives -- well, let's back  
9 up.

10 At the June 2015 retreat didn't she report on a  
11 survey where she talked about a state survey that had been done  
12 of parents in the district and students? You recall that?

13 A Yes.

14 Q And wasn't one of the things that the district was rated  
15 very lowly on in that survey was student safety? Specifically  
16 students said they didn't feel safe in the buildings?

17 MS. SCHWENDENER: Objection.

18 THE COURT: Objection sustained. Irrelevant.

19 MR. DAVIS: Well, it's relevant. May I.

20 THE COURT: Right now the objection is sustained.

21 MR. DAVIS: Okay.

22 THE COURT: We don't have a lot. Put a pin in it.

23 MR. DAVIS: Okay.

24 BY MR. DAVIS:

25 Q Did she report the results of the survey?

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1 A Yes, she reported the results.

2 Q At the retreat?

3 A She reported it. I don't know whether it was at the  
4 retreat, but she did report it.

5 Q Right. And one of the issues she raised -- one of the  
6 things she reported was that the survey results showed that  
7 students had issues regarding their safety in the buildings?

8 A Yes, I heard her testify to that this morning.

9 Q Okay. And, in fact, when she changed the summer school  
10 schedule, didn't she do it in a way where it didn't cost the  
11 district any additional money?

12 A I don't recall whether it did or not.

13 Q Well, do you recall that it cost the district any  
14 additional money?

15 A No.

16 Q So you did hear her testimony where she said that she  
17 changed the workweek? They were still getting paid 40 hours,  
18 the same 40 hours they had been paid. Did you hear that  
19 testimony earlier?

20 A Yes.

21 Q Okay. Do you have anything to contradict that?

22 A No.

23 Q Okay. Thank you. So in addition to the contract and we  
24 talked about the summer school and we talked about Echo, you  
25 all talked about -- one of the directives was not spending

J. Rogers - direct by Davis

1 enough time in the district, right? Was that one of the  
2 performance directives that you gave her on August 17th?

3 A I'd have to look at it to see.

4 Q Okay. Let me bring it up.

5 MR. DAVIS: And this is going to be an exhibit which  
6 we previously had up, Judge. This is going to be Exhibit No.  
7 22.

8 THE COURT: All right. 22 has already been  
9 published. Proceed, Counsel.

10 BY MR. DAVIS:

11 Q Yes. So can you see 22, Mrs. Rogers?

12 A Yes.

13 Q And you see at the bottom No. 2 where it says, you have  
14 not been present in the district for sufficient periods of time  
15 to satisfactorily exercise your oversight of district  
16 operations?

17 A Yes.

18 Q Okay. And it says here, you generally do not start your  
19 business day until midmorning?

20 A Yes.

21 Q Okay. Let me ask you about that because I don't think we  
22 talked about that. Was Dr. Adams -- did she sign -- punch a  
23 time card every day?

24 A No.

25 Q Did she sign in when she came in in the morning?



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1 A Not to my knowledge.

2 Q So how is it -- did you work in the district in August of  
3 2015? Were you employed in the district?

4 A I'm a board member.

5 Q Well, were you employed --

6 A You can't be employed.

7 Q -- physically in the building?

8 A No.

9 Q Did you work there?

10 A No.

11 Q Did any other board members work there?

12 A Not to my knowledge.

13 Q So what's the basis of this statement that she came in  
14 every day at midmorning? How did you all know that? Did  
15 somebody tell you that? What --

16 THE COURT: All right. Counsel, you can't keep  
17 asking questions.

18 BY MR. DAVIS:

19 Q Okay. What is the basis for this statement in a  
20 performance directive?

21 A Because when you call there, she's never there until 10,  
22 11:00 o'clock every day, and the workday starts at  
23 8:00 o'clock.

24 Q So you've had occasions where you called her and she  
25 wasn't there?

J. Rogers - direct by Davis

1 A Quite a few times.

2 Q Was this every day? Was this --

3 A Quite a few times. I can't say -- at least two to three  
4 days out of a week.

5 Q Okay. So this was August 17th, 2015 that these  
6 performance directives are issued, right? The school year  
7 started July 1st of that year, right?

8 A Yes.

9 Q So between July 1st and August 17th, 2015, how many times  
10 did you call there and she wasn't in until approximately --

11 A You said the school year starts what?

12 Q July 1st. Didn't it start July 1st, the 2015-16 school  
13 year?

14 A No.

15 Q When did it start?

16 A I can't recall, but it's not in July. The kids are not in  
17 school in July. The school year starts in August, but she's  
18 there every 11 months.

19 Q Doesn't the academic year run from July 1st to June 30th  
20 the following year?

21 A No.

22 THE COURT: The academic year, sir, or the -- for  
23 someone who's in administration, their year?

24 BY MR. DAVIS:

25 Q The -- well, when I say academic, I mean the school

J. Rogers - direct by Davis

1 calendar, the school year. Schools don't run on January to  
2 June calendar, right? They have a 2013-14 academic year;  
3 2014-15, correct?

4 A Yes.

5 Q Okay. And the 2015-2016, this would have been --  
6 August 17th, 2015 would have been in the 2015-2016 calendar  
7 year, right? School year?

8 A I would assume, yes.

9 Q And so -- and that starts, Dr. Adams testified earlier  
10 from July 1st to June 30th of 2016. And you all issued this  
11 directive in August 17th saying she's only in there -- well,  
12 you know what, the directive said. You said the basis was you  
13 made phone calls and she wasn't there. How many times can you  
14 sit here and tell us that that happened in that time period,  
15 from July 1st to August 17th when you put it in there?

16 A I can't tell you how many times because I didn't count  
17 them.

18 Q Okay. Did you write any of these times up? Did you issue  
19 any discipline before August 17th?

20 A No.

21 Q Did you issue any discipline saying you're never in the  
22 office on time before July 10th?

23 A Not in writing, no.

24 Q Did you have any conversations with her before July 10th  
25 about this issue?

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1 A During the time I was president, yes, I did.

2 Q And when was that?

3 A During the time I was president while she was there from  
4 '13, for the first two years that she was there on her  
5 contract.

6 Q So you told her in '13 -- was it June, July? When?

7 A I can't tell you the month or the year. All I can say is  
8 we had a conversation about her coming in late during the day,  
9 because there was issues at the school district and nobody was  
10 there to cover them but the assistant.

11 Q And did you take any form of disciplinary action at that  
12 time?

13 A No, I did not. I could not do that as one board member.  
14 Even as the president.

15 Q Well, we know you know how to call a special board  
16 meeting. Did you call a special board meeting to address this?

17 A No, I did not.

18 Q Did you call any kind of meeting to address this?

19 A No, I did not.

20 Q Did anybody else in the district -- because you weren't  
21 the only one who issued these performance directives. Did  
22 anybody else address this prior to July 10th, 2015?

23 A You would have to speak with them. I can only speak for  
24 myself.

25 Q To your knowledge have -- you've been on the board since

J. Rogers - direct by Davis

1 '91 off and on, correct?

2 A That's correct.

3 Q Do you have any knowledge of this ever being brought up as  
4 a performance issue?

5 A Other board members -- by other board members or by me?

6 Q Yes.

7 A Yes. On the sheet that we have here now.

8 Q What sheet?

9 A The paper that we have --

10 Q Other than the directives that we are looking at now,  
11 prior to July 10th, 2015, had Dr. Adams' coming and going and  
12 not being in the district, was that ever brought up?

13 A Yes, I did bring it up to her. I did mention it to her.

14 Q Other than you. You talked about that, but you don't  
15 remember --

16 A I have no knowledge of no one else --

17 THE COURT: Wait. Wait. Wait. Wait. Wait. One at  
18 a time.

19 THE WITNESS: Okay.

20 THE COURT: We're ending up here, but we're not going  
21 to talk over each other.

22 THE WITNESS: Thank you.

23 THE COURT: All right. So --

24 MR. DAVIS: I'm sorry.

25 THE COURT: Go ahead, Counsel.

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1 BY MR. DAVIS:

2 Q You don't -- final question on this point, Miss Rogers.  
3 You don't know of any other board member before July 10th that  
4 raised the issue of Dr. Adams' attendance or tardiness?

5 A I have no knowledge of no one else, no.

6 Q Thank you. So --

7 THE COURT: All right. You know what, then that's a  
8 good place to stop.

9 MR. DAVIS: Okay.

10 THE COURT: All right. So you'll be back here in the  
11 morning, Miss Rogers. You're required to come back to complete  
12 your testimony. And I ask that you be here by 9:15. Do you  
13 understand?

14 THE WITNESS: Yes.

15 THE COURT: All right. And you're excused for now.  
16 You're under oath. Do not discuss or review anything. If you  
17 do, you could be subject to telling us about it. And if you  
18 have to tell us about it, that could reflect on your  
19 credibility. Do you understand?

20 THE WITNESS: Yes.

21 THE COURT: All right. You are excused right now.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 THE COURT: All right. You're welcome. Ladies and  
25 gentlemen of the jury, tomorrow Halloween day, it is the normal

1 day when I hear most of my criminal cases, which sometimes  
2 start a little later. But in order to be ready for -- I'm  
3 going to ask you be here again -- if you can get here around no  
4 later than 9:30, we should be able to start much earlier than I  
5 expected we were going to. Our schedule tomorrow will be a  
6 shortened lunch. Maybe 30 minutes for lunch. And then this  
7 Court will -- you will be out of here well before 3:15  
8 tomorrow. All right. That's the schedule. Okay.

9 And again, do not -- do not review anything on this  
10 case. Please do not make any consideration about the gap we  
11 took, the break we took. We were doing work that had to be out  
12 of your presence, but it should not affect how you perceive the  
13 evidence, which is coming from the witness stand not from any  
14 speculations about our breaks. All right. And go home, enjoy  
15 the evening, and we will see you tomorrow morning. Again, no  
16 research on the case. No research on the parties. And that's  
17 the only way we can ensure a fair trial. All rise.

18 (Jury excused.)

19 THE COURT: All right. I'll be back out in five  
20 minutes, and we'll get this -- are you going put something in  
21 writing on the due process thing or no?

22 MR. DAVIS: Are you asking me, Judge?

23 THE COURT: No.

24 MR. DAVIS: Oh.

25 THE COURT: You've done yours.

1 MR. DAVIS: Yes.

2 THE COURT: Yes. Anything further in writing? We  
3 can -- I mean, I've just -- I've got the cases. I've been  
4 trying to read them during our breaks. And we can have our  
5 final discussion and put that to bed. Okay. All right.

6 MS. SCHWENDENER: Thank you, Judge.

7 THE COURT: Before we leave today. I'll be back out  
8 in about five minutes, letting them get out of the building.  
9 Okay. Thank you.

10 MR. DAVIS: Thank you, Your Honor.

11 (Short break taken.)

12 THE COURT: All right. We're getting back to -- I  
13 believe this was all again the issue of the motion in limine  
14 defendants brought of No. 18 and my ruling on that, and  
15 plaintiff's continued request to revisit that ruling. Am I  
16 correct, Counsel?

17 MR. DAVIS: Hope springs eternal, Judge.

18 THE COURT: But that's the -- that is the one, is  
19 that correct?

20 MR. DAVIS: Yes.

21 THE COURT: All right. So even though plaintiff's --  
22 I'm sorry, defendants' motion was to bar the plaintiff from  
23 seeking damages on the three-year -- the second three-year  
24 future possibility contract, and the arguments have sort of  
25 morphed into something else. And the Court went and read



1 Sindermann, Coleman, Umbehr. All of which are summary judgment  
2 cases, which is an important difference as to where we are now,  
3 and, and I don't see the confusion with my ruling. Because the  
4 way the ruling is you're right, it's like Umbehr where yes, she  
5 gets to bring in any activity, or the way they treated her can  
6 come in from -- to show that her speech of auditing -- ordering  
7 an audit, her speech of -- now I'm missing it. Her speech of  
8 when --

9 MR. DAVIS: The police report.

10 THE COURT: The police report. Thank you. Filing a  
11 police report and talk about the damages on that. That's  
12 allowed. But it was for the current contract she was under and  
13 the one year that she was being extended to. And so their  
14 whole decision, the reason I granted it is their whole motion  
15 was on the next, the future contract. There's nothing in the  
16 cases that you have cited that I even relied on in some of the  
17 cases when I was making my decision that shows otherwise. It  
18 is already a, a factual issue that this Court made the  
19 determination that this is for the jury. This was not a matter  
20 for, as you brought up in one of your arguments, that it would  
21 go from one point, then the Court would decide whether or not  
22 they had sufficiently presented evidence as a matter of law.

23 It's been decided. This is summary judgment. I  
24 ruled. And I ruled that there was a factual dispute. That it  
25 wasn't a matter of law; and, therefore, you could bring that

1 in. As to the three-year, it's almost a totally separate  
2 argument from what was dealing --

3 MR. DAVIS: That's right.

4 THE COURT: -- what we were dealing with. And  
5 Umbehr, that -- they're not looking at a, a second step of the  
6 contract. They're not looking at the fact that she had a  
7 permanent contract -- she had one contract that she was dealing  
8 with, and she was already promised a one-year extension. Was  
9 there some talk about a three-year extension? Yes, but that is  
10 not the situation in any of the cases you have brought before  
11 me. I'm not allowing any further argument. My ruling stays  
12 the same, and you cannot get in the damages for the three years  
13 beyond that that are speculative. And the Court just does not  
14 see any support for you bringing that.

15 So that's my ruling. That's the way you present it,  
16 and you follow my ruling for the rest of the argument. We are  
17 not having any more bites at the apple. The Appellate Court  
18 can deal with it. If you all want to continue the expense up  
19 there, you can feel free to do that, if you need to. If you  
20 win, I'm sure you don't care about it, and they won't be able  
21 to say that they didn't have every opportunity to have the  
22 Court support their position.

23 MR. DAVIS: Right. There was two issues, Judge,  
24 actually. And I think they've gotten melded. One was the  
25 three-year --

1 THE COURT: That might be so.

2 MR. DAVIS: That was the three-year. And my position  
3 was that because they retaliated against her and denied the  
4 renewal as a matter because of her speech, that Umbehr and the  
5 other cases were on point. And I --

6 THE COURT: About, about the -- so you're saying that  
7 Umbehr and the other cases were on point about the next step,  
8 which was the future three-year?

9 MR. DAVIS: Right.

10 THE COURT: That's what your --

11 MR. DAVIS: Right.

12 THE COURT: And the Court --

13 MR. DAVIS: Because they --

14 THE COURT: The Court says that is too speculative.  
15 That was not promised. That's my ruling.

16 MR. DAVIS: And I don't think it was promised to  
17 Umbehr that he would have another year on his garbage contract.

18 THE COURT: But the problem -- the difference with  
19 Umbehr is that Umbehr was getting these year contracts, and  
20 they kept coming up. That's different from saying, okay.  
21 You're getting year contracts, but, you know, sometime in the  
22 future we're actually thinking of you giving a five-year  
23 contract with no renewals necessary. And then they didn't do  
24 it. He would have been promised the next year because that was  
25 a matter of practice, that was something they did. As opposed

1 to the five-year where, ah, we could do it or we might not.  
2 And I don't think you could hold that -- they could have done  
3 that either way just because they were thinking of it. That's  
4 my decision.

5 MR. DAVIS: Well, in Coleman they didn't even have a  
6 property right. But I don't want to belabor that point.

7 THE COURT: We're done with the property right.

8 MR. DAVIS: Right.

9 THE COURT: It's over.

10 MR. DAVIS: The second issue was due process, and  
11 they were saying they wanted to tell the jury that the jury had  
12 to decide whether Dr. Adams had a due process right in the  
13 contract extension. Their argument --

14 THE COURT: The one year?

15 MR. DAVIS: Yes, in the one year. Their argument is  
16 because the goals weren't in the contract and the contract  
17 extension was invalid, she couldn't have a property right  
18 sufficient to have a due process notice requirement before they  
19 rescinded the one year.

20 THE COURT: In the one year?

21 MR. DAVIS: And they're saying -- and they're saying  
22 that that's a jury question.

23 THE COURT: And so --

24 MR. DAVIS: And that's where I was saying it's a --

25 THE COURT: Once again he can present that evidence

1 about what happened as regards to the one-year. He can present  
2 evidence of that. But when we get to the close of the  
3 plaintiff's case, if you don't believe that that's been met,  
4 then you do a motion for directed finding or you do one and ask  
5 that this Court find as matter of law --

6 MR. PETRARCA: Right.

7 THE COURT: -- your client has that argument. And  
8 you can object to that and say it hasn't, and then the Court  
9 will make the ruling on the DV motion. But it's almost  
10 similar, that it's coming up again almost like another bite at  
11 the issues on summary judgment. But it wasn't clear from the  
12 way the arguments were presented. And that's what caused some  
13 of the confusion. But evidence can come in about different  
14 actions, even disciplinary, whatever that was taken about the  
15 one year, before the one -- before that. After she gives the  
16 speech. And when we bring in that evidence at the close of the  
17 plaintiff's case, plaintiff can make a motion and say, Judge,  
18 as a matter of law, the evidence shows we've shown it. And  
19 then --

20 MR. DAVIS: Well, it's the second count of the  
21 complaint, Judge. It's --

22 THE COURT: I'm not dealing with counts. I'm dealing  
23 with the issue of the first -- the excess -- the extended  
24 contract for a year.

25 MR. DAVIS: Right.

1 THE COURT: You bring it -- Counsel, you are  
2 confusing the issue. You're bringing in all of this with the  
3 counts and the pleading. This isn't it. The Court had ruled  
4 on summary judgment, said there were issues of fact on what --

5 MR. DAVIS: Yes, Judge.

6 THE COURT: -- what was going on. And so now you can  
7 bring in -- the evidence is coming in if you want it to --

8 MR. DAVIS: That's great, Judge.

9 THE COURT: -- to support that issue. However, at  
10 the close of your case if you want to say, Judge, we want a  
11 finding as a matter of law --

12 MR. DAVIS: Sure.

13 THE COURT: -- that's when you do it.

14 MR. DAVIS: Sure.

15 THE COURT: Or they can do the same thing.

16 MR. DAVIS: Sure.

17 THE COURT: Okay. That's it.

18 MR. DAVIS: And the confusion, Judge, and I'm taxing  
19 your patience I know, is you didn't let me in my opening  
20 address that issue. You were saying I was opening the door  
21 because we hadn't arrived at this clarity --

22 THE COURT: Well, one reason --

23 MR. DAVIS: -- at that time.

24 THE COURT: Yes, we hadn't, we hadn't -- yes, we  
25 arrived at that clarity, and that's not at all unusual for the

1 Court to have reserved a ruling until trial. And even though  
2 people would like to get it in in opening, they can't. But as  
3 long as they get the evidence out in the course of their  
4 putting their case on, if it's supposed to be out, and the  
5 Court will obviously allow plenty of argument at the end on it.  
6 The Court will also allow the instructions on it if it meets  
7 that.

8 But it's not at all unusual that if the Court just  
9 can't make a decision based on not hearing -- either the  
10 arguments being a little bit convoluted, or that the evidence  
11 hasn't come out yet. I'm not going to allow something -- I  
12 can't take it back from opening statement. All right.  
13 Especially if it's being used --

14 MR. DAVIS: True.

15 THE COURT: -- similar to how it's been used here.  
16 She said or he said in opening statement. So it's better for  
17 the Court to say stay away from it until we get through the  
18 case. All right. So now you know we won't discuss this again.  
19 It doesn't come up again until directed verdict if you all  
20 don't for some reason find your minds and settle the case.

21 (Laughter.)

22 THE COURT: So all right. I'll see you tomorrow.

23 MR. PETRARCA: Thank you, Your Honor.

24 THE COURT: Come at --

25 MS. SCHWENDENER: Thanks, Judge.

1 THE COURT: If you can come at -- definitely by 9:15.  
2 I have prisoners that Yvette has worked miracles on who are in  
3 custody that are going to be a little early. But I really want  
4 to hit it. And there's a half an hour lunch. Okay.

5 MS. SCHWENDENER: Sure.

6 THE COURT: All right. Thank you very much.

7 MS. SCHWENDENER: Thank you, Judge.

8 MR. DAVIS: Thank you, Your Honor. Thanks for your  
9 time.

10 THE COURT: All right. Thank you. Oh, and tomorrow  
11 since we have the early Halloween, I would suggest that you  
12 spend at least an hour after they leave going through your  
13 instructions so that the Court can be aware of what you are  
14 definitely objecting to. You already know the witnesses who  
15 are going to be called, is that correct, tomorrow?

16 MR. DAVIS: Yes.

17 THE COURT: They've got -- everybody knows who the  
18 witnesses are going to be?

19 MR. DAVIS: I've asked for Tyrone Rogers to be here.  
20 I've got two people coming in on subpoena, Eric Kellogg and Dr.  
21 Nohelty and --

22 THE COURT: You've got the mayor coming in on  
23 subpoena?

24 MR. DAVIS: Yes.

25 THE COURT: All right. The problem I have is, is you



1 all take my nice little speech away from me. I didn't do *Judge*  
2 *Judy* this time or *People's Court*. I usually do say this isn't  
3 what this is. I don't know if I can quite say that.

4 MR. DAVIS: Oh, wow, Judge. That hurts.

5 THE COURT: And it's not just you. I'm saying you've  
6 got the mayor coming in who was the superintendent at the same  
7 time. You've got two men --

8 MR. DAVIS: Yes.

9 THE COURT: -- who have either been convicted or  
10 indicted for something. And then they're married to the people  
11 who are here. It's like you couldn't make this up, in the  
12 words of one of my staff. All right. Thank you.

13 MR. DAVIS: That's true, Judge.

14 THE COURT: Thank you. Hey, you know what, people  
15 ask me if it's a boring job. It is not a boring job. I love  
16 my job. All right. See you all in the morning.

17 MS. SCHWENDENER: Thank you, Judge. Have a good  
18 night.

19 THE COURT: Thank you.

20 MR. DAVIS: Thank you, Your Honor.

21 THE COURT: All right.

22 MR. DAVIS: Thanks for all your time.

23 THE COURT: Thank you.

24 (W hereupon, said trial was recessed at 5:30 p.m., to

25 reconvene on 10/31/18, at 9:15 a.m.)